

IFB



AIRPORT PERIMETER RD RECONSTRUCTION PROJECT

IFB # IFB-032023-071

ADOT NO. E2S4Y01C

City of Scottsdale Project #A103A

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ATTACHMENT A – PROJECT SPECIFICATIONS

- Part 1 - STANDARD SPECIFICATIONS
- Part 2 - FAA STANDARD SPECIFICATIONS
- Part 3 - SPECIAL PROVISIONS FOR AIRPORT CONSTRUCTION
- Part 4 - CONSTRUCTION SAFETY AND PHASING PLAN

ATTACHMENT B – CONSTRUCTION DOCUMENTS

INSTRUCTIONS TO BIDDERS



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The City of Scottsdale invites sealed submittals to provide all labor, equipment, and materials to provide construction services for public improvements for the reconstruction of the vehicle access roadway inside the Scottsdale Airport to include but not limited to roadway excavation, subgrade preparation, construction of aggregate base course, construction of asphalt concrete pavement, tack coat, and asphalt pavement crack sealing and filling for the Airport Perimeter Road Reconstruction Project.

All phases of work for this project will take place at night, between the hours of **9:00 PM and 6:00 AM**. Bid submittals shall be priced accordingly.

SOLICITATION CRITICAL DATES

BID SUBMITTAL DUE:	<u>2:00 P.M. LOCAL TIME/MAY 11, 2023</u>
PRE-BID CONFERENCE:	<u>9:00 A.M. LOCAL TIME/APRIL 27, 2023</u>
QUESTIONS DUE:	<u>10:00 A. M. LOCAL TIME/ May 4, 2023</u>
APPROVED ALTERNATE SUBMITTALS DUE:	<u>(N/A)</u>

1. SUBMITTAL RECEIPT AND OPENING

The City of Scottsdale is utilizing Bonfire Interactive to provide a procurement portal that allows access to business opportunities and to submit bids and proposals electronically. If you are not registered as a City of Scottsdale Bonfire vendor visit the Bonfire portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://cityofscottsdale.az.bonfirehub.com) then follow the link to the Bonfire vendor registration page to register your company. Registration is easy and free. If you have any challenges with the registration process, please contact Bonfire Interactive Support at support@gobonfire.com.

SEALED SOLICITATION SUBMITTALS WILL BE ELECTRONICALLY RECEIVED until the time and date stated in the portal and in the **SOLICITATION CRITICAL DATES** section of the solicitation document. It shall be the responsibility of the bidder to confirm that bids contain all required documents and are submitted electronically through the City of Scottsdale procurement portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://cityofscottsdale.az.bonfirehub.com). **LATE SUBMITTALS WILL NOT BE ACCEPTED** and will automatically be rejected by the system.

The Purchasing office will conduct a remote/online Microsoft Teams Live Event meeting for the public opening of the solicitation. To virtually attend this meeting, visit us online by clicking the following link on the designated date/time referenced in the Critical Dates section above:

[Teams Meeting Link](#)

It is strongly recommended you begin your submission upload process at least one (1) day prior to the deadline. Any technical or internet-related issues that may arise during your submission are not grounds to extend the deadline.

No Submittal will be considered unless it is submitted on the required forms and or format contained herein.

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2. **PRE-BID CONFERENCE**

A Pre-Bid Conference will be held at **9:00 A.M. LOCAL TIME ON APRIL 27, 2023**, at the Scottsdale Airport located at 15000 N Airport Drive, Scottsdale, AZ 85260, Aviation Business Center, 2nd floor conference room. All Bidders are urged to attend.

3. **INFORMATION REQUESTS**

Requests for additional information relating to this bid should be directed to:

Judie Bass
Bid & Contract Specialist
(480-312-5744)
(jbass@scottsdaleaz.gov)

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4. SOLICITATION QUESTIONS

The bidder shall submit all questions, requests for clarification and inquiries in regard to this solicitation electronically via the City of Scottsdale Bonfire portal. The questions are due by the question due date and time stated in the portal and listed in the **CRITICAL DATES** section of the solicitation. When submitting any questions, the bidder should indicate the page number, section number/clause, title if possible, and the paragraph number that is being questioned.

It is the bidder's responsibility to give notice, in the form of written questions, before the bid opening on any item or issue in this solicitation that you believe should not be included or contained in any amendment to this solicitation or that the City failed to include in this solicitation that should have been included, and by your notice, the City could have cured the problem if the item or issue had been timely raised or objected to.

Failure to give notice may constitute a waiver of your right to object to the inclusion or lack of inclusion of the item or issue in this solicitation in any subsequent protest filed by you.

Any inquiries received after the specified time will be reviewed on an individual basis by the Purchasing Staff to determine if a response would be advantageous for the City.

5. APPROVED ALTERNATES

Specifications and plans, if applicable, may contain references to service requirements, equipment and/or materials (patented or unpatented) or "approved alternate(s)." Such references shall be regarded as establishing a standard of quality, finish, appearance, performance or as indicating a selection or design based upon compatibility with existing equipment, materials or details of construction (if applicable) inherent to the project design. Such references shall not be construed as limiting the selection to a specified item, source or design detail. The use of an alternate or substitute item or source as an approved alternate will be permitted, subject to the following procedure and pursuant to ARS 34-104 if the subject matter of this solicitation involves construction.

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5. APPROVED ALTERNATES – CONT'D

- a. The bidder shall submit all requests for approved alternates electronically via the City of Scottsdale Bonfire portal. The alternate requests are due by the alternate request due date and time. Alternate requests shall include all information necessary for proof of quality and suitability for substitution including benefits, engineering design and data (calculations) and/or detailed plan modifications which may be required by the substitution. The bidder shall submit additional information and/or samples when required.

The Contract Administrator or their representative, will evaluate the information submitted, perform tests when necessary and make comparisons in order to approve or reject the proposal. If rejected, the Contract Administrator shall give notice of rejection to the Bidder submitting the request for approved alternate.

- b. Purchasing, if the request for approved alternate is accepted, shall issue a written addendum to the Solicitation specifying the approved alternates and publish the modification in the same manner as the original solicitation documents.
- c. The Specifications may reference equipment or materials "or alternate". The reference to "or alternate" shall be construed to mean "or approved alternate" in every instance. Use of an alternate or substitute item shall be allowed only if approval was received as outlined in this Section.
- d. For purposes of submitting a Request for Approved Alternate, the "Bidder" is defined as the person or firm entering a submittal to the City in response to this solicitation. Therefore, the City will not entertain any submittal for an approved alternate from any party not meeting the definition of bidder.

6. ENVIRONMENTAL PROCUREMENT POLICY

The City has established an Environmental Procurement Policy which encourages the inclusion of environmentally responsible products and services available to meet the intended purpose. We encourage the offer of alternatives that broaden the range of environmentally responsible products or services that will meet the performance requirements of this solicitation. IF YOU WISH TO SUBMIT AN ALTERNATIVE, follow the procedures specified in the Instructions to Bidders, Approved Alternate Section of this document, unless the approved alternate clause has been deemed not applicable.

7. PURCHASING WEB SITE

The Purchasing web site provides a wide variety of information including: how to introduce your products, list of Purchasing staff, commodity lines, etc. The web site can be accessed at <http://www.scottsdaleaz.gov/Purchasing>.

The City of Scottsdale is utilizing Bonfire Interactive to provide a procurement portal that allows access to business opportunities, download solicitations, and to submit bids and proposals electronically. If you are not registered as a City of Scottsdale Bonfire vendor visit the Bonfire portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](http://City of Scottsdale, AZ (bonfirehub.com)) then follow the link to the Bonfire vendor registration page to register your company. Registration is easy and free. If you have any challenges with the registration process, please contact Bonfire Interactive Support at support@gobonfire.com.

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8. DOWNLOADING SOLICITATIONS

Solicitation documents, plan sheets/drawings, if applicable, and addenda are available for download. Bidders may print their own copies of these documents. Solicitation documents are not available at the Purchasing Department offices. In addition, the City of Scottsdale has partnered with Bonfire Interactive to provide a procurement portal that allows vendors to download solicitations and submit bids and proposals digitally at [City of Scottsdale, AZ \(bonfirehub.com\)](http://City of Scottsdale, AZ (bonfirehub.com)).

9. SOLICITATION OPPORTUNITIES

The City of Scottsdale is utilizing Bonfire Interactive to provide a procurement portal that allows access to business opportunities and to submit bids and proposals electronically. If you are not registered as a City of Scottsdale Bonfire vendor visit the Bonfire portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](http://City of Scottsdale, AZ (bonfirehub.com)) then follow the link to the Bonfire vendor registration page to register your company. Registration is easy and free. If you have any challenges with the registration process, please contact Bonfire Interactive Support at support@gobonfire.com

10. CITY OF SCOTTSDALE PROCUREMENT CODE

All procurement activities conducted by the City of Scottsdale are in conformance with the rules and regulations of the Scottsdale Procurement Code. A copy of the Code is available for review in the Office of the City Clerk located at City Hall, 3939 Drinkwater Boulevard and the Purchasing Office located at 9191 E. San Salvador Drive, Scottsdale, Arizona. A copy of the Code is also available from the Purchasing website:

<http://www.scottsdaleaz.gov/purchasing>

A hard copy of the Code is available for purchase, for a fee of \$10.00, at the Purchasing Office.

11. PROSPECTIVE BIDDER'S CONFERENCE

A prospective bidder's conference may be held. If scheduled, the date and time of this conference is indicated on the cover page of this document. The purpose of this conference is to clarify the contents of this Solicitation in order to prevent any misunderstanding of the City's position. This conference will also give Bidders an opportunity to submit any questions and discuss any questions previously submitted.

12. BIDDER'S PRESENTATION

Bidders may be invited to make a presentation. If invited, Bidders will be notified of the date and time of the presentation by the City of Scottsdale Purchasing Department.

13. INELIGIBLE BIDDER

The preparer of the bid specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a Bidder or Offeror on the solicitation for which they prepared the specification.

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14. OBLIGATIONS

The issuance of this Solicitation shall not obligate the City to pay any costs incurred in the preparation and submission of proposals.

15. NON-COLLUSION AFFIDAVIT

By signing the Offer Form/Signature Page of the solicitation, or other official contract form, the Bidder certifies that:

In connection with the performance of this solicitation or any resulting Contract, the Bidder is stating and certifying that the Contractor/Company has not either directly, or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive proposing in connection with the preparation or submission of its Submittal in response to this solicitation or any potential resulting Contract.

If any company is jointly owned or associated through common officers/employees with another company(s) that is/are responding to the same solicitation, both/all of those companies must take all precautions to ensure that the preparation of their bid or proposal submittal is done completely independent of the other company(s) or individual(s). Specifically, any individual working on preparation, approving or signing one submittal can have no knowledge of or interaction with any other bid or proposal submission from a different company for that same solicitation.

If the subject matter of this solicitation is construction, the Bidder shall submit a completed and notarized Non-Collusion Affidavit, stating and certifying that said Bidder/Company has not either directly, or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive proposing in connection with the preparation or submission of its Submittal in response to this solicitation or any potential resulting Contract. The Bidder is to return the completed and notarized Non-Collusion Affidavit with its submittal.

16. IMMIGRATION LAW COMPLIANCE

By signing the Offer Form/Signature Page of this solicitation, the Bidder certifies and warrants that for all solicitations for services (including construction services), it has complied with and will maintain compliance with the E-Verify Program as required by ARS §23-214(A) up to the time of the contract award. Failure to comply with the E-Verify Program may result in the automatic disqualification of the Submittal as being non-responsive or the termination of any contract awarded and the possible forfeiture of any applicable bond.

The City will include specific "Compliance with Federal and Arizona State Immigration Laws" language in any contract or subcontract it enters into with the successful Bidder. In addition, this language must be included in any subcontracts that the successful Bidder enters into with its subcontractors.

17. LAWFUL PRESENCE IN THE UNITED STATES FOR PERSONS

Arizona State law A.R.S. §1-502 (H.B. 2008) requires that all PERSONS who will be awarded a contract and apply for public benefit must demonstrate through a signed affidavit and the presentation of a copy of documentation that they are lawfully present in the United States.

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17. **LAWFUL PRESENCE IN THE UNITED STATES FOR PERSONS – CONT'D**

A PERSON is defined as all-NATURAL PERSONS/INDIVIDUALS/SOLE PROPRIETORSHIPS as indicated by your W-9 Filing. *(This law does not apply to LLP's, LLC's, PLLC's, Corporations, Limited Partnerships or General Partnerships)*

By submitting your quote, bid or proposal to the City, you are agreeing that if you are selected as the awardee and meet the criteria as a PERSON, you will abide by this law and sign and submit an AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES and attach the appropriate copy of your documentation in proof of that statement. Types of acceptable documentation copies are an Arizona Driver's License issued after 1996, Arizona non-operating identification license, U.S. birth certificate, U.S. Passport, I-94 Form with photograph and several others that are all listed on the Affidavit form that the City will send to you for your completion prior to issuing any contract.

If you have previously done business with the City and already have filed the above Affidavit with copies of an acceptable document, please indicate the date of submission. An acceptable Affidavit already on file with the City will be sufficient to meet this requirement.

If you fail to provide a completed Affidavit and accompanying acceptable copy of your documentation, or not advise the City of your prior filing within 10 calendar days of being requested, then you may be considered non-responsive and disqualified from award consideration. You can obtain the complete Affidavit form from the Purchasing Department at (480) 312-5700 or the Purchasing web site at <http://www.scottsdaleaz.gov/Purchasing> on the lower right side of the page under Forms.

18. **TAXES/LICENSES**

Federal Excise Taxes:

The City of Scottsdale is exempt from certain federal excise taxes. The most common areas where the City is exempt are:

1. Fuel that is used by the City
2. Communication
3. Heavy trucks, trailers and tractors
4. Certain Superfund activity

If there is a specific circumstance that is in doubt, you should contact the City to resolve the status of that Federal Excise tax and its applicability.

Transaction Privilege (Sales) Taxes on the City:

The City of Scottsdale is not exempt from being charged the appropriate Arizona State, County, and City privilege (sales) taxes on the goods and services that it procures. For suppliers within the state of Arizona the City expects to be charged the appropriate privilege taxes on the invoice. For out of state suppliers that do not have the ability to collect Arizona privilege taxes, the City will self-accrue such Arizona State and City use taxes for collection and payment to the State of Arizona and City of Scottsdale.

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18. TAXES/LICENSES – CONT'D

Transaction Privilege (Sales) Taxes on the Supplier / Contractor: Certain Business Services and Activities may incur a City of Scottsdale Transaction Privilege (sales) tax liability. To determine the City of Scottsdale tax treatment, please visit the following website and view the City of Scottsdale Tax Code and other Privilege and Use tax resources.

Questions pertaining to the applicability of taxes shall be directed to the City of Scottsdale Tax & License Section at 480-312-2400. The Contractor shall be responsible for payment of all applicable taxes due on contract income whether or not such taxes are specifically separated in the bid amount.

<http://www.scottsdaleaz.gov/taxes/>

Certain Business Services and Activities may have a State Transaction Privilege (sales) tax liability. To determine the State tax treatment, please visit the following website or contact the Arizona Department of Revenue at 602-716-6578 or 602-716-6657.

<http://azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=42>

To obtain a State of Arizona Privilege (Sales) Tax License Application, please go to the following website:

<http://www.azdor.gov/Business.aspx>

The City of Scottsdale requires a license for service-oriented businesses located in Scottsdale that do not have a City of Scottsdale transaction privilege (sales) tax liability. This includes all activities or acts including, but not limited to service, professionals, trades and occupations, personal or corporate. To engage or continue in business the owner must obtain a Business, Occupational and Professional license. Service oriented businesses located outside the City limits are NOT required to obtain a Business, Occupational and Professional License from the City of Scottsdale.

Please visit the following website for the City of Scottsdale Transaction Privilege & Use Tax License and the Business, Occupational and Professional License applications:

<http://www.scottsdaleaz.gov/taxes/>

Bidder is solely responsible for any and all tax obligations which may result out of the Bidder's performance of this contract. The City has no obligation to pay any amounts for taxes, of any type incurred by the Bidder.

Construction Related Transaction Privilege (Sales) Taxes Responsibility of the Contractor:

The Contractor shall be responsible for payment of all applicable State of Arizona and City of Scottsdale transaction privilege (sales) taxes due on construction income whether or not such taxes are specifically separated in the bid amount. The taxes are to be reported on either a progressive billing (accrual) basis or cash receipts basis, depending on the method chosen at the time application was made for the Privilege (sales) Tax License.

City Privilege (sales) tax exemptions/deductions may be applicable to certain projects. We advise you to consider this as you prepare your bid. Please review, in detail, Sections 415, 465, and 110 of the Scottsdale Revised City Code, Appendix C to determine if exemptions/deductions are applicable. For tax guidance, please reference the City Code and other tax resources at the following website: <http://www.scottsdaleaz.gov/taxes/>

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18. TAXES/LICENSES – CONT'D

The State of Arizona has similar exemptions; please reference ARS Title 42 at the following website:

<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=42>

To determine tax treatment of design/build contracts, please contact the Arizona Department of Revenue at 602-255-2060 and the City of Scottsdale Tax Audit Section at 480-312-2629.

Construction bids will be evaluated and recommended for award based on the total bid cost including tax.

19. CONTRACTOR'S LICENSING REQUIREMENTS

The Contractor shall identify its Arizona State Contractor's License Number and Classification on the Bid Form Signature Page as evidence that it is licensed to contract the work indicated in the specifications at the time of bid submittal.

In accordance with Article 3, Regulation 32-1151 of the Arizona Registrar of Contractor's Statutes and Rules, it is unlawful for any person, firm, partnership, corporation, association or other organization, or a combination of any of them, to engage in the business of, submit a bid or respond to a request for qualification/quotation or a request for proposals for construction services as, act or offer to act in the capacity of or purport to have the capacity of a Contractor without having a Contractor's license in good standing in the name of the person, firm, partnership, corporation, association or other organization at the time of bid submittal, if such licensing is a requirement of the Arizona Registrar of Contractors.

20. LITIGATION

The Bidder shall disclose along with any Submittal, any issue or potential issue that may have a material bearing on the financial condition, solvency or credit worthiness of the organization. Disclosure includes any material contingent liabilities or uninsured potential losses, involuntary contract terminations in other jurisdictions and any voluntary or involuntary bankruptcy filings over the past 7 years. The Bidder shall also disclose any litigation in which the Bidder has been involved in, either as a plaintiff or defendant, within the past 3 years, and the Bidder shall agree to notify the City within 7 days of any litigation or significant potential for litigation of which the Bidder becomes aware. Further, the Bidder shall warrant that it will disclose in writing to the City all litigation involving the Bidder, the Bidder's related organization(s), owners and key personnel.

21. SUBCONTRACTOR'S LIST

If, at the time of bidding, any Bidder intends to subcontract any portion of this contract, the Bidder must complete the information required on the Subcontractor's List and include this list with bid submittal documents.

22. SUBCONTRACTORS

During the performance of the Contract, the Contractor may engage any additional Subcontractors as may be required for the timely completion of this Contract, unless specifically prohibited by the specification. The addition of any Subcontractors must first receive the approval of the City. The awarded Contractor may relieve Subcontractors of City Tax liability by providing them with a completed Subcontractor Written Declaration form.

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22. SUBCONTRACTORS – CONT'D

In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Contractor. The Contractor assumes responsibility for the proper performance of the work of Subcontractors and any acts or omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

23. CONFIDENTIAL INFORMATION

Requests for nondisclosure of confidential information such as trade secrets and other proprietary data must be made known to the City within the bid submittal.

Bidders are instructed to clearly identify any proprietary information that may be submitted, and, if feasible, package such information in a separate, sealed envelope labeled “Confidential” or “Proprietary”.

The City is subject to Arizona statutes and City Charter provisions that may permit the inspection of public records. The City cannot ensure confidentiality of any portion of a submittal document in the event a public inspection request is made. However, in accordance with Section R2-188.23 pertaining to Request for Proposals and Section R2-188.6 pertaining to Invitation for Bids, of the City’s Procurement Code, the City shall examine the portions of your proposal noted as “Confidential” and/or “Proprietary”. If a determination to disclose the information is made, you shall be so informed.

This is the only notification concerning confidential information that will be given to potential Bidders, and this provision should be taken into consideration prior to submitting a bid.

After contract award, and unless otherwise instructed by the Bidder, the City will destroy all information identified as confidential or proprietary in accordance with public records retention requirements.

24. SMALL BUSINESS

Small, minority owned businesses (MBE/WBE/DBE) are encouraged to respond to City of Scottsdale solicitations.

25. TITLE VI NOTICE

"The **City of Scottsdale**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d to 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."

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26. INTERPRETATIONS, ADDENDA

THE CITY OF SCOTTSDALE WILL NOT BE RESPONSIBLE FOR BIDDERS ADJUSTING THEIR SUBMITTAL BASED ON ORAL INSTRUCTIONS BY ANY MEMBER OF THE CITY STAFF OR BY THE CITY'S CONTRACTED CONSULTANT OR AGENT. SUBMITTALS DEVIATING FROM THE SPECIFICATIONS CONTAINED HEREIN BY ANY MEANS OTHER THAN AN AUTHORIZED ADDENDUM ISSUED BY THE PURCHASING DIVISION ARE SUBJECT TO REJECTION.

Should a Bidder find an ambiguity, inconsistency or error in the applicable Plans or Specifications, or should it be in doubt as to their meaning, it shall at once notify the contact person listed on page one of this solicitation, who will prepare a written addendum if warranted. The City shall not be responsible for oral instructions or information.

All questions shall be submitted as per the Solicitations Questions Clause.

Any addenda issued by the City shall become a part of the Contract. By signing and submitting a bid or proposal, the Bidder is acknowledging that it will abide by all addenda issued prior to the opening of the bids and agreeing that all pricing takes into account all such addenda.

A Notice of Addenda will be emailed to those who have registered as a downloader and provided their email address; or provided by other appropriate means to each Bidder, person or firm recorded on the Plan Holder's list. The Bidder can return to the City's website under Solicitation Opportunities to verify how many addenda have been issued for a specific solicitation. If the Bidder feels it is missing any addenda, it can register again as a downloader to obtain access to all issued addenda. A viewing copy of the addenda will also be available wherever the solicitation documents are kept. The Bidder is responsible to be aware of ALL addenda before submitting its final bid. The City takes no responsibility for any addenda that a Bidder has failed to address in its submittal and will hold the Bidder responsible that its pricing encompasses all issued addenda.

27. SUBMITTING BIDS

No Bid will be considered unless it is submitted on the bid forms contained herein. All submittals are to be completed on the applicable City of Scottsdale (**COS**) forms without any alterations; failure to do so may result in your submittal being rejected.

The City of Scottsdale is utilizing Bonfire Interactive to provide a procurement portal that allows access to business opportunities and to submit bids and proposals electronically. If you are not registered as a City of Scottsdale Bonfire vendor visit the Bonfire portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://cityofscottsdale.az.bonfirehub.com) then follow the link to the Bonfire vendor registration page to register your company. Registration is easy and free. If you have any challenges with the registration process, please contact Bonfire Interactive Support at support@gobonfire.com.

Offeror shall submit all required documents and information electronically through the City of Scottsdale procurement portal at: City of Scottsdale, AZ ([bonfirehub.com](https://cityofscottsdale.az.bonfirehub.com)).

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27. SUBMITTING BIDS – CONT'D

SEALED SOLICITATION SUBMITTALS WILL BE ELECTRONICALLY RECEIVED until the time and date stated in the portal and in the **CRITICAL DATES** section of the solicitation document. It shall be the responsibility of the bidder to confirm that bids contain all required documents and are submitted electronically through the City of Scottsdale procurement portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://cityofscottsdale.bonfirehub.com)

LATE SUBMITTALS WILL NOT BE ACCEPTED. It is strongly recommended you begin your submission upload process at least one (1) day prior to the deadline. Any technical or internet-related issues that may arise during your submission are not grounds to extend the deadline.

Bids submitted to the City constitute a legally binding offer. In addition, the successful Bidder will be required to sign the City of Scottsdale standard construction contract included herein.

28. AWARD DETERMINATION

Bids will be evaluated and recommended for award based on the total bid cost including all applicable taxes.

The total bid cost amount shall include all costs attendant to the bid such as any preparation charges and transportation and delivery charges fully prepaid by the Contractor to the destination specified in the Bid.

The contract will be awarded to the lowest responsible and responsive Bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids. The City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

In the event of an "Add Alternate" bid, in order to keep the project within the budget, the City will use the "alternate add" bidding process. Under this procedure, the City will award the contract to the lowest responsive Bidder considering the sum of the "base bid" and those "alternate bid items" which are within the budget. The City will select the alternates in the order specified in the bid tabs/phases. The City reserves the right not to select any item in the "alternate bid".

29. REJECTION OF BIDS

The Purchasing Director or City Council reserves the right, as the interest of the City requires, to reject any or all submittals, to waive any informality in submittals received, to award a contract by accepting or rejecting any alternate submittal(s) (additive or subtractive) and reserves the right to reject the submittal(s) of any Bidder who has previously failed to perform competently in any contract with the City.

30. PROTESTS

Pursuant to the City of Scottsdale Procurement Code Section 2-213, an aggrieved person may protest any aspect of a solicitation prior to award of a contract. As used herein, the phrase "any aspect of a solicitation" shall be limited in its interpretation to mean an alleged violation of the City's

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Procurement Code as it relates to the bid solicitation, its evaluation, or its award.

A protest must be filed within ten (10) calendar days after the protestor, exercising reasonable diligence, knew or should have known of facts and circumstances upon which the protest is based. Failure to protest any issue, fact or circumstance that the protestor knew or should have known upon the exercise of reasonable diligence within said ten (10) calendar day period shall forever preclude a hearing based upon that issue, fact or circumstance.

Notice of Awards will be given either through the City Council Meeting Agendas for those contracts being awarded by City Council (i.e., for construction and professional services) or through a Notice of Intent to Award posting, seven (7) calendar days prior to award, on the Purchasing section of the City's Internet Web Site for all administratively awarded contracts. Awards of contracts shall be final and no protest pursuant to this section may be filed after award.

A protest must be in writing and shall:

State the name and address of the aggrieved person.

Identify the contracting activity and the number of the solicitation.

Contain a statement of all the grounds for the protest that the protestor then knows or should know based upon the exercise of reasonable diligence. Include supporting exhibits, evidence or documents to substantiate any claims unless not available within the filing time in which case the expected availability date shall be indicated.

Material submitted by a protester shall not be withheld from an interested party except to the extent that the withholding of information is permitted or required by law or as determined pursuant to code provisions for confidential material.

If the protester believes the protest contains material that should be withheld, a statement advising the Director of this fact shall accompany the protest submission.

The written protest must be filed with the Purchasing Director at the following address:

City of Scottsdale
Purchasing Services Department
9191 E San Salvador Dr.
Scottsdale, AZ 85258
Attn: Robert Schoepe, Purchasing Director

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30. PROTESTS – CONT'D

The Director may dismiss a protest, upon a written determination, before scheduling a hearing if:

The protest does not state a valid basis for protest; or

The protest is untimely pursuant to Procurement Code Section 2-213.

Material submitted by a protester shall not be withheld from an interested party except to the extent that the withholding of information is permitted or required by law or as determined pursuant to code provisions for confidential material.

If the protester believes the protest contains material that should be withheld, a statement advising the Director of this fact shall accompany the protest submission.

The written protest must be filed with the Purchasing Director at the following address:

City of Scottsdale
Purchasing Services Department
9191 E San Salvador Dr.
Scottsdale, AZ 85258
Attn: Robert Schoepe, Purchasing Director

The Director may dismiss a protest, upon a written determination, before scheduling a hearing if:

The protest does not state a valid basis for protest; or

The protest is untimely pursuant to Procurement Code Section 2-213.

If the Director determines that a hearing is appropriate under the circumstances, the Director shall notify the protestor of the time and place set for a hearing on the protest. The Director may also give notice of the hearing to any other persons involved in the solicitation whose interests may be affected by the ruling requested from the Director. Any person whose interest is affected shall be permitted to intervene and participate in such hearing.

Nothing contained herein shall require that the protest hearing be held prior to the award, if evidence from the solicitation, its evaluation or its award cannot be released to the public until after the award in order to protect the competitive process or in the best interests of the City.

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31. CONTRACT AWARD NOTIFICATION

Intent to Award notices for contracts conducted as formal solicitations will be posted on Purchasing's procurement portal in the Past Public Opportunities Information section. Intent to Award notices can be downloaded by clicking on the View Opportunity button under the Action column and then by clicking on the Download button in the Supporting Documentation section for the appropriate document. Intent to Award and award information can be found at the link provided below:

<https://scottsdaleaz.bonfirehub.com/portal/?tab=pastOpportunities>

The City Council must approve the award of contracts for construction and professional services exceeding the formal procurement limit. Any contract award going to City Council for approval is not binding on the City until after approval by the City Council, even if previously signed by the Contractor and a City representative. All other contracts exceeding the formal procurement limit may be administratively awarded by the Purchasing Director.

It is the submitter's responsibility to access this information from the City of Scottsdale Purchasing website link provided above. This is the only notification you will receive regarding the posting of Notices of Intent to Award and Award.

32. DONATIONS

If you intend to submit a bid or proposal, to avoid the appearance of impropriety, you shall not make any donation of goods or services to the City during the bid or proposal process.

33. BID BOND

- a) Each bid must be accompanied by a **cashier's check** made payable to the order of City of Scottsdale in the sum of not less than 10% of the total bid, or a bond with sufficient sureties to be approved by the City in a sum equal to 10% of the total bid, and naming City of Scottsdale as obligee. Bid Security will be returned to all but the two lowest responsible and responsive Bidders after the Intent to Award has been posted, and the remaining securities returned within fourteen (14) days after the final execution of the contract.
- b) Each 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 State Department of Insurance pursuant to Arizona Revised Statutes Title 20, Chapter 2, Article 1. The bonds shall not be executed by an individual or personal surety or sureties. Additionally, the surety company issuing any bond shall have an A.M. Best Company Inc. Financial Strength Rating of not less than "A-VI".

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1. ADDITIONAL SERVICE REQUESTED

Any service requested which is not specifically authorized by the Contract or written adjustments thereto, require the issuance of a separate purchase order by the City for authorization to perform, and separate billing by the Contractor for payment.

2. ADVERTISING

No advertising or publicity concerning the City using the Contractor's services shall be undertaken without prior written approval of such advertising or publicity by the City of Scottsdale Contract Administrator and by the City Attorney.

3. ARIZONA LAW

The Contract and all Contract Documents are considered to be made under and will be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions. Any action to enforce any provision of this Contract or to obtain any remedy under this Contract shall be brought in the Superior Court, Maricopa County, Arizona, and for this purpose, each party expressly and irrevocably consents to the jurisdiction and venue of this Court.

4. ASSIGNMENT

Services covered by this Contract may not be assigned or sublet in whole or in part without first obtaining the written consent of the Purchasing Director and Contract Administrator.

5. ATTORNEY'S FEES

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party an award of reasonable attorneys' fees and reasonable costs and expenses, which shall be deemed to have accrued on the commencement of such action.

6. AUTHORITY

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

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7. CANCELLATION OF CITY CONTRACTS – CONFLICT OF INTEREST

The City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party of the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from the City is received by all other parties to the contract, unless the notice specifies a later time (A.R.S. 38-511).

8. CAPTIONS/HEADINGS

The headings used in the Contract Documents are for ease of reference only and will not in any way be construed to limit or alter the meaning of any provision.

The captions used in this Contract are solely for the convenience of the parties, do not constitute a part of this Contract, and are not to be used to construe or interpret this Contract.

9. CERTIFICATE OF INSURANCE

The successful vendor(s) will be required to furnish the City of Scottsdale a certificate of insurance on a standard insurance industry ACORD™ form or its equivalent. The ACORD™ form must be issued by an insurance company authorized to transact business in the State of Arizona. A sample of a standard insurance industry ACORD™ form with the required additional insured language can be found on the Purchasing web site under forms at: <http://www.scottsdaleaz.gov/Purchasing>. Failure to provide a Certificate of Insurance with the appropriate verbiage will result in rejection of your certificate and/or may be cause for contract default. Additionally, Certificates of Insurance submitted without referencing the Solicitation Number may be subject to rejection and discarded.

10. CHEMICALS

Contractors shall provide Safety Data Sheets (SDS) for all substances that are delivered to the City of Scottsdale, that come under the Federal requirements of 29CFR 1910 Subpart Z - Toxic and Hazardous Substances, which includes 29CFR 1910.1200 - Hazard Communication

All Contractors using chemicals on City of Scottsdale property shall use only the safest chemicals, with the least harmful ingredients. These chemicals shall be approved for use by a City of Scottsdale representative prior to bringing them on City property.

Contractors shall make every attempt to apply approved chemicals with highly volatile organic compounds, outside of working hours. Adequate ventilation shall be used at all times during the application of these approved chemicals.

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10. CHEMICALS – CONT'D

In conjunction with the Occupational Safety and Health Standards, Subpart-Z Toxic and Hazardous Substances, and Section 1910.1200 Hazard Communication, Contractors are hereby informed of the presence (or possible presence) of chemicals in the area where the work requested will be performed. All selected Contractors shall contact the City of Scottsdale for specific information relative to the type of chemicals present and location of appropriate safety data sheets.

11. COMPLIANCE WITH FEDERAL AND ARIZONA STATE IMMIGRATION LAWS

Under the provisions of A.R.S. §41-4401, the Bidder warrants to the City that the Bidder and all its subcontractors will comply with all Federal Immigration laws and regulations that relate to their employees and that the Bidder and all its subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Bidder or any of its subcontractors will be considered a material breach of this Contract and may subject the Bidder or Subcontractor to penalties up to and including termination of this Contract or any subcontract.

The City retains the legal right to inspect the papers of any employee of the Bidder or any subcontractor who works on this Contract to ensure that the Bidder or any subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Bidder and any of its subcontractors to ensure compliance with this warranty. The Bidder agrees to indemnify, defend and hold the City harmless for, from and against all losses and liabilities arising from any and all violations of these statutes.

The City will not consider the Bidder or any of its subcontractors in material breach of this Contract if the Bidder and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article must be included in any contract the Bidder enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property. The Contractor will take appropriate steps to assure that all subcontractors comply with the requirements of the E-Verify Program. The Contractor's failure to assure compliance by all its' subcontractors with the E-Verify Program may be considered a material breach of this Contract by the City.

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12. COMPLIANCE WITH FEDERAL AND STATE LAWS

The City has entered into this Contract with the Bidder relying on his knowledge and expertise to provide the services contracted for. As a part of that reliance, the Bidder represents that it knows and understands the relevant and applicable federal and state laws that apply to the services provided through this Contract and agrees to comply with these relevant and applicable federal and state laws.

The Bidder understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986, the Drug Free Workplace Act of 1989 and for construction contracts: A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited", and A.R.S. § 34-302, as amended, "Residence Requirements for Employees".

13. CONTRACT ADMINISTRATOR DUTIES

The Contract Administrator shall be responsible to audit the billings, approve payments, establish delivery schedules, approve addenda, and assure Certificates of Insurance are in City's possession and are current and conform to the contract requirements.

14. CONTRACTOR ON SITE SAFETY REPORTING REQUIREMENTS

For any non-construction City supplier whose service contract(s) (either singular or in aggregate) results in the Contractor working 500 or more hours on site at a City of Scottsdale location(s) in any one calendar quarter, the following documentation must be provided by the Contractor to the Contract Administrator (CA):

- the Contractor's most recent OSHA 300A (if applicable);
- all accident reports for injuries that occurred in the City under the contract during the most recent review period;
- the Contractor's current worker's compensation experience modifier;
- the above information is to be provided to the CA initially and every February thereafter as long as the contract is in force;
- the CA will provide this information to Risk Management when requested.

15. COUNTERPARTS

This contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract shall be deemed to possess the full force and effect of the original.

16. ENDANGERED HARDWOODS

The Project shall not utilize any endangered species prohibited by A.R.S. §34-201(J), unless an exemption is granted by the Director of the State of Arizona, Department of Administration.

17. ENTIRE AGREEMENT

The documents comprising this Solicitation constitute the entire understanding of the Parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

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18. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the Bidder will follow the Federal government's guidelines to ensure that employees or applicants applying for employment will not be discriminated against because of race, color, religion, sex or national origin. The City of Scottsdale Diversity Office can be reached at 480-312-2727.

19. ESTIMATED QUANTITIES

All quantities referenced in this solicitation document are subject to adjustment dictated by City requirements. Quantities at variance with stated bid quantities may be purchased as required.

20. EXECUTION OF CONTRACT

The Contractor shall provide all the required documentation including, but not limited to, applicable bonds, insurance certificates, IRS W-9 form and other documentation required to issue the purchase order or Notice to Proceed; within ten (10) calendar days after the date of the Acceptance of Offer or Notice of Contract Award by the City. If a separate City Contract is required, the Contractor must execute it within ten (10) calendar days and return it to the City. Failure to complete these requirements within ten (10) calendar days may place the Contractor in default.

Upon request, the Contractor shall provide the required I.R.S. W-9 Form which is available from the IRS website at www.irs.gov under their forms section.

21. FORCE MAJEURE

The City shall not be held responsible for acceptance of all or any part of the materials tendered for delivery under this Agreement due to federal, state or municipal action, statute, ordinance or regulation, strike or other labor trouble, fire, windstorm or other incidents outside of the City's control which shall make such acceptance impossible or impractical.

Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

22. FUNDS APPROPRIATION

If the City Council does not appropriate funds to continue this Contract and pay for required charges, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice to the Contractor at least 30 days before the end of its current fiscal period and will pay the Contractor for all approved charges incurred through the end of this period.

23. INDEPENDENT CONTRACTOR

The services Contractor provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee, or agent of the City. The City may report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

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23. INDEPENDENT CONTRACTOR – CONT'D

City shall not withhold income tax as a deduction from contractual payments unless required under federal or state law. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

24. LITIGATION

The Bidder will disclose any issue or potential issue that may have a material bearing on the financial condition, solvency or credit worthiness of the organization. Disclosure includes any material contingent liabilities or uninsured potential losses, involuntary contract terminations in other jurisdictions and any voluntary or involuntary bankruptcy filings over the past 7 years. The Bidder will also disclose any litigation in which the Bidder has been involved in, either as a plaintiff or defendant, within the past 3 years, and the Bidder shall agree to notify the City within 7 days of any litigation or significant potential for litigation of which the Bidder becomes aware during the course of any contract with the City. Further, the Bidder shall disclose in writing to the City, all litigation involving the Bidder, the Bidder's related organization, owners and key personnel.

25. LOCAL CONDITIONS, RULES AND REGULATIONS

The Bidder shall familiarize itself with the nature and extent of the Contract documents, work to be performed, all local conditions, and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the work.

26. MODIFICATIONS

Any adjustments, alterations, additions, deletions, or modifications in the terms and/or conditions of this Contract must be made by written Change Authorization approved by the Contract Administrator, Purchasing Director and the Contractor.

If Contractor performs any modification without such written Change Authorization, the City shall not be obligated to accept said modification.

27. NO PREFERENTIAL TREATMENT OR DISCRIMINATION

In accordance with the provisions of Article II, Section 36 of the Arizona Constitution, the City will not grant preferential treatment to or discriminate against any individual or group on the basis of race, sex, color, ethnicity or national origin. The City of Scottsdale Diversity Office can be reached at 480-312-2727.

28. NO WAIVER

The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions of this Contract will not be construed to be a waiver of those provisions, nor will it affect the validity of the Contract Documents, or the right of either party to enforce each and every provision.

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28. NO WAIVER – CONT'D

No delay or failure of either party in exercising any right hereunder, and no partial or single exercise thereof, shall be deemed to constitute a waiver of such right or any other rights hereunder. All waivers must be in writing and signed by the party to be charged. Any waiver by either party of any requirement hereunder shall be deemed to be a specific limited waiver and shall not be deemed to be a continuing waiver nor a waiver of any other requirement hereof.

29. PATENTS / INTELLECTUAL PROPERTY

The Contractor agrees upon receipt of notification to promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City of Scottsdale and its agents or Bidders for alleged patent and/or copyright infringement, as well as for the alleged unfair competition resulting from similarity in design, trademark or appearance of goods by reason of the use or sale of any goods furnished under this contract and the Contractor further agrees to indemnify the City against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from the bringing of such suit or proceedings including any settlement or decree of judgment entered therein.

The City may be represented by and actively participate through its own counsel in any such suit or proceedings if it so desires.

30. PAYMENT TERMS

The City of Scottsdale's payment terms are payment within thirty (30) days except in Title 34 circumstances where payment is required within fourteen (14) days. Payment may be sooner where cash discounts are offered for early payment, however, cash discounts offered will not be considered in determining lowest Bidder. In no event will payment be made prior to receipt of an original invoice containing invoice and Purchase Order numbers and receipt of purchased item. The City is not liable for delays in payment caused by failure of the Contractor to send an invoice to the address specified below:

CITY OF SCOTTSDALE
ACCOUNTS PAYABLE
7447 E. INDIAN SCHOOL ROAD, SUITE #210
SCOTTSDALE, ARIZONA 85251-4468

31. RECORDS AND AUDIT RIGHTS

Contractor's and Subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract (all the foregoing hereinafter referred to as "Records") shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City of Scottsdale, or its authorized representative, to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims based on Contractor's or Subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Contract. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City of Scottsdale or its authorized representative shall have access to said Records from the effective date of this Contract for the duration of the work and until three (3) years after the date of final payment by the City of Scottsdale to Contractor pursuant to this Contract.

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31. RECORDS AND AUDIT RIGHTS – CONT'D

The City of Scottsdale or its authorized representative shall have access, during normal working hours, to all necessary Contractor and Subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this Article. The City of Scottsdale shall give Contractor or Subcontractor reasonable advance notice of intended audits.

Contractor shall require Subcontractors to comply with the provisions of this Article by insertion of the requirements hereof in any subcontract pursuant to this Contract.

If an audit in accordance with this article, discloses overcharges, of any nature, by the Contractor to the City in excess of one percent (1%) of the total contract billings, the actual cost of the City's audit shall be reimbursed to the City by the Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Contractor.

32. REGISTERED/LICENSES

To be considered responsive, Contractors must be registered / licensed in the State of Arizona, if such registration/license is normally a requirement for the nature of the work contemplated by this Contract.

33. RISK OF LOSS

Contractor agrees to bear all risks of loss, injury or destruction of goods and materials ordered as a result of this Contract which occur prior to delivery to the City; and such loss, injury, or destruction shall not release Contractor from any obligation hereunder.

34. REQUEST FOR TAXPAYER I.D. NUMBER & CERTIFICATION IRS W-9 FORM

Upon request, the Contractor shall provide the required I.R.S. W-9 FORM which is available from the IRS website at www.IRS.gov under their forms section.

35. SCOTTSDALE CITY SEAL AND CITY SYMBOL

The Scottsdale City seal (as defined in S.R.C. § 2-1) and the City symbol are registered marks and are reserved solely for the City's use. Any other use or reproduction of the City's registered marks in any print, digital, or other media without the City's express, written consent is prohibited. As a breach of this prohibition may impair the City's reputation, dilute its mark(s), or otherwise cause the City irreparable harm, the City shall be entitled to an immediate injunction enjoining such use in addition to any other legal or equitable remedies.

36. SEVERABILITY

If any provision of the Contract Documents or the application of them to any person or circumstance is invalid, illegal or unenforceable to any extent, the remainder of the Contract Documents and their application will not be affected and are enforceable to the fullest extent permitted by law.

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37. SUCCESSORS AND ASSIGNS

No right or interest covered by this Contract shall be assigned in whole or in part without the prior written consent of the City. Any assignment made in contravention of this section shall be considered void.

The Contractor and the City agree that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs and assigns. This Contract extends to and is binding upon the Contractor, its successors and assigns, including any individual, company, partnership or other entity with or into which the Contractor merges, consolidates or is liquidated, or any person, corporation, partnership or other entity to which the Contractor sells its assets.

38. SURVIVAL

All warranties, representations and indemnifications by the Contractor shall survive the completion or termination of this Contract.

39. TERMINATION

Termination for Convenience: City reserves the right to terminate this contract or any part hereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Contractor shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. Contractor shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination.

Contractor shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Contractor's suppliers or subcontractors which Contractor could reasonably have avoided. Contractor shall not unreasonably anticipate the requirements of this contract.

Cancellation for Cause: City may also terminate this Contract or any part hereof with seven (7) days' notice for cause in the event of default. If the Contractor fails to comply with any of the terms and conditions of this Contract. Late deliveries, deliveries of products which are defective or do not conform to this Contract, unsatisfactory performance as judged by the Contract Administrator, or failure to provide City, upon request, with adequate assurances of future performance shall all be causes allowing City to terminate this Contract for cause. In the event of termination for cause, City shall not be liable to Contractor for any amount, and Contractor shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination. If it should be determined that City has improperly terminated this Contract for default, such termination shall be deemed a termination for convenience.

In the event Contractor is in violation of any Federal, State, County or City law, regulation or ordinance, the City may terminate this contract immediately upon giving notice to the Contractor.

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**40. TESTING OF MATERIALS**

When required in the course of any service or contract, the procedures and methods used to sample, and test material will be determined by the City. Unless otherwise specified, samples and test will be made in compliance with the following: The City of Scottsdale Minimum Sampling Frequency Guide, The City of Scottsdale Material Testing Manual and/or the standard methods of AASHTO or ASTM, DSPM and MAG supplements.

The City will provide a pre-qualified City or Independent Testing Laboratory and will pay directly for initial City Acceptance Testing. If the first and subsequent tests indicate noncompliance with the specifications, the cost associated with that noncompliance shall be paid for by the Contractor. When the first and subsequent tests indicate noncompliance with the specifications, all retesting will be performed by the same testing agency.

Rejected materials shall be immediately removed and shall not be used in any form for any other part of the work.

41. TIME IS OF THE ESSENCE

Time is of the essence with respect to the dates and times contained in the Contract Documents.

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1. ACCEPTABILITY OF INSURERS

Without limiting any obligations or liabilities of the Contractor, the Contractor must purchase and maintain, at its own expense, the required minimum insurance with duly licensed or approved non-admitted insurers in the State of Arizona with an A.M. Best rating of not less than B++6 with policies and forms satisfactory to City. Failure to maintain insurance as required may result in termination of this Contract at the City's option.

2. ACCEPTANCE / AGREEMENT

If for any reason Contractor should fail to accept the Agreement in writing, any conduct by Contractor which recognizes the existence of an Agreement pertaining to the subject matter hereof shall constitute acceptance by Contractor of the Agreement and all its terms and conditions. Any terms proposed by Contractor which add to, vary from or conflict with the terms herein are hereby rejected by the City. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions of the Agreement between the parties. If any Agreement has been issued by the City in response to a bid and if any of the terms therein are additional to or different from any terms of such bid, then the issuance of the Agreement by the City shall constitute an acceptance of such bid subject to the express conditions that the Contractor assent to such additional and different terms herein and acknowledge that the Agreement constitutes the entire agreement between the City and the Contractor with respect to the subject matter and acknowledged unless Contractor notifies the City to the contrary in writing within ten (10) days of receipt of the Agreement.

3. AMENDMENTS

The Contract Documents may not be changed, altered, modified, or amended in any way except as provided in the General Terms and Conditions.

4. APPROVAL

Any modification or variation from the insurance requirements in this Contract must be approved by the Risk Management Division, whose decision is final. This action will not require a formal Contract amendment but may be made by administrative action.

5. CHANGES IN CONTRACT PRICE

The Contract Price may be changed only by a written Change Order issued by the City in accordance with the General Terms and Conditions. The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:

- a. Unit prices previously approved.
- b. An agreed lump sum.
- c. The Provision of M.A.G. 109.5.

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6. CHANGES IN THE WORK

The City may at any time, order changes within the scope of the work without invalidating the Contract. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by written Change Order.

The City shall execute a formal Change Order based on detailed written quotations from the Contractor for work related changes and/or a time of completion variance. All Change Orders are subject to approval by the City.

The City also may at any time, issue a written field order to make changes in the details of the work not affecting contract price or time. The Contractor shall proceed with the performance of any changes in the work so ordered unless the Contractor believes that such written field order entitles him to a change in Contract price or time, or both, in which event it shall give the City written notice thereof within one (1) day after the receipt of the Field Order, and the Contractor shall not execute such changes pending the receipt of an executed Change Order.

If the Contractor performs work authorized under a Field Order and subsequently requests a Change Order for that work, the City shall not be obligated to issue a Change Order.

7. CITY ASSURANCE

The Contract Administrator shall report to the Contractor in writing, via email, or other written documentation, all deficiencies in the quality of performance of the maintenance service. All communication, written or verbal, between the City of Scottsdale and the Contractor shall be in English.

All deficiencies in the performance of the Contractor's service shall be corrected promptly by the Contractor as directed by the Contract Administrator.

The Contract Administrator may monitor and review the performance of the Contractor and employees. The outcomes of this oversight may have a direct bearing on the opportunity to negotiate a renewal of the Contract, when applicable.

8. CITY'S RIGHT OF CANCELLATION

All parties to this Contract acknowledge that it is subject to cancellation by the City of Scottsdale as provided by Section 38-511, Arizona Revised Statutes.

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9. CITY'S RIGHT TO PERFORM AND CANCEL FOR CAUSE

- A. If the 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, Subconsultants or Subcontractors, (v) prosecute the work with promptness and diligence to ensure that the work is completed by the Contract time, as these 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, has the rights stated in the provisions dealing with the City's Right to Perform and Cancel for Cause.

In the event the Contractor is in violation of any Federal, State, County or City law, regulation or ordinance, the City may cancel this Contract immediately upon giving notice to the Contractor. In the event the City cancels this Contract or any part of the services, the City will notify the Contractor in writing, and immediately upon receiving notice, the Contractor must discontinue advancing the work under this Contract and proceed to close all operations.

- B. If the City provides the Contractor with a written order to correct deficiencies, to provide adequate maintenance of traffic, adequate cleanup, adequate dust control, or to repair damage resulting from abnormal weather conditions, and the Contractor fails to comply within the time frame specified, the City may have work accomplished by other sources at the Contractor's expense.
- C. Upon the occurrence of an event as stated in the provisions dealing with the City's Right to Perform and Cancel for Cause, the City may provide written notice to the Contractor that it intends to cancel the Contract unless the problem cited is cured, or commenced to be cured, within 7 days of the Contractor's receipt of notice.
- D. If the Contractor fails to cure, or undertake reasonable efforts to cure the problem, then the City may give a second written notice to the Contractor of its intent to cancel within an additional 7-day period.
- E. If the Contractor, within this second 7-day period, fails to cure, or undertake reasonable efforts to cure the problem, then the City may declare the Contract canceled for cause by providing written notice to the Contractor of this declaration.
- F. Upon declaring the Contract canceled, the City may enter upon the premises and take possession of all materials and equipment, for the purposes of completing the work.
- G. Upon cancellation or abandonment, the Contractor will deliver to the City all drawings, special provisions, field survey notes, reports, and estimates, entirely or partially completed, in any format, including but not limited to written or electronic media, together with all unused materials supplied by the City. Use of incomplete data will be the City's sole responsibility.
- H. The Contractor will appraise the work it has completed and submit its appraisal to the City for evaluation.

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9. CITY'S RIGHT TO PERFORM AND CANCEL FOR CAUSE – CONT'D

- I. If through any cause, the Contractor fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the City may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the City from the Contractor is determined by a court of competent jurisdiction.
- J. In the event of cancellation for cause, the Contractor shall not be entitled to receive any further payments under the Contract Documents until the work is finally completed in accordance with the Contract Documents. At that time, the Contractor will only be entitled to be paid for work performed and accepted by the City before its default subject to offset by the City for any damages suffered as a result of the cancellation for cause.
- K. If the City's cost and expense of completing the work exceeds the unpaid balance of the Contract Price, then the Contractor will be obligated to pay the difference to the City. These costs and expense will 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 reprocurement and defense of claims arising from the Contractor's default.
- L. If the City improperly cancels the Contract for cause; the cancellation for cause will be converted to a termination for convenience in accordance with the provisions of Termination for Convenience provisions.

10. CITY'S SERVICES AND RESPONSIBILITIES

A. Duty to Cooperate

The City will, throughout the performance of the work, cooperate with the Contractor and perform its responsibilities, obligations and services in a timely manner to facilitate the Contractor's timely and efficient performance of the Work and so as not to delay or interfere with the Contractor's performance of its obligations under the Contract documents.

The City will furnish the Contractor a CADD file or electronic format acceptable to the City of the construction documents, at no cost to the Contractor.

B. Contract Administrator

The Contract Administrator is responsible for providing City supplied information and approvals in a timely manner to permit the Contractor to fulfill its obligations under the Contract documents.

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10. CITY SERVICES AND RESPONSIBILITIES – CONT'D

B. Contract Administrator – Cont'd

The Contract Administrator will also provide the Contractor with prompt notice if the CPM Inspector observes any failure on the part of the Contractor to fulfill its contractual obligations, including any default or defect in the Project or non-conformance with the drawings and specifications.

The City may contract separately with a Design Team which may include partial construction administration services for the Project. The Design Team's Contract will be furnished to the Contractor.

The Contract Administrator is responsible for construction administration of the work. The Design Team, if authorized by the City, will review, approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples in accordance with Section 29. Communications by and with the Design Team will be through the Contract Administrator.

The Contract Administrator and the Design Professional will interpret and decide matters concerning performance under the requirements of the Contract documents. The Design Professional's response to these requests will be made to the City with reasonable promptness. The City will forward response to the Contractor within the time limits agreed upon.

C. City's Separate Contractors

Contractor will not be responsible for work performed on the project or at the site by separate Contractors under the City's control. The City will require its separate Contractors to reasonably cooperate with, and coordinate their activities, so as not to unreasonably interfere with the Contractor, in order to enable timely completion of work consistent with the Contract documents.

D. Permit Review and Inspections

Approving specific parts of the Building Permit is the responsibility of the City of Scottsdale's Capital Project Management. The City of Scottsdale Plan Review Division issues Certificates of Occupancy.

E. Furnishing of Services and Information

The City will be responsible for the payment or waiver of the following:

1. City review and permit(s) fees for building, encroachment, and demolition permits.
2. City review fees for grading and drainage, water, sewer and landscaping.
3. Utility design fees for permanent services.
4. Obtaining Nationwide 404 Permits.
5. City Development Fees.

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10. CITY SERVICES AND RESPONSIBILITIES – CONT'D

E. Furnishing of Services and Information – Cont'd

Unless expressly stated to the contrary in the Contract documents, the City will provide, at its own cost and expense, for the Contractor's information the following:

1. To the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;
2. Easements (other than temporary construction easements and staging areas), zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable the Contractor to perform the work;
3. A legal description and street or physical address of the site;
4. To the extent available, as-built record and historical drawings of any existing structures at the site;
5. To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including hazardous materials, in existence at the site;
6. At Contractor's request, the City will provide copies of City's standards and guidelines, supplementary conditions and special provisions that are included in the plans and specifications for the project. These may include but are not limited to: disposal of surplus material, special security provisions, investigation of underground facilities, traffic controls and regulations, special quality control testing and termite treatment requirements;
7. The City is responsible for securing and executing all necessary Contracts with adjacent land or property owners that are reasonably necessary to enable the Contractor to perform the construction.

F. Project Management Services

The City may contract separately with one or more Technical Consultants to provide project management assistance to the project. The Technical Consultant's Contract as well as the Contracts of other firms hired by the City will be furnished to the Contractor. The Contractor will not have any right however, to limit or restrict any contract modifications that are mutually acceptable to the City and Technical Consultant.

The Technical Consultant services will augment the City staffing resources to effectively manage the objectives of the City and this Project with the goal of managing the key project communication, cost and time parameters.

The Technical Consultant may provide preprogramming and design standards.

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10. CITY SERVICES AND RESPONSIBILITIES – CONT'D

F. Project Management Services – Cont'd

The City may contract with the Technical Consultant to provide some or all of the following services during the performance of the construction:

1. **Oversight of the Construction.** The Technical Consultants may:
 - a. Conduct site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed construction and to determine in general if the construction is being performed in accordance with the construction documents. The Technical Consultant will keep the City informed of progress of the construction and will endeavor to guard the City against defects and deficiencies in the construction. The Technical Consultant may have authority to reject construction which does not conform to the construction documents and to require additional inspection or testing of the construction in accordance with Sections 15 and 16;
 - b. Review and recommend approval of the Contractor's payment requests;
 - c. Interpret matters concerning performance under and requirements of the Contract documents on written request of the City. The Technical Consultant's response to these requests will be made with reasonable promptness and within any time limits agreed upon;
 - d. Analyze, recommend and assist in negotiations of Change Orders;
 - e. Conduct inspections to determine Substantial Completion and Final Acceptance;
 - f. Receive and forward to the City for the City's review and records, written warranties and related documents required by the Contract documents and assembled by the Contractor.

11. CLAIMS AND DISPUTES

Requests for Contract Adjustments and Relief

- A. If either the Contractor or the City believes that it is entitled to relief against the other for any event arising out of or related to the Work, that party will provide written notice to the other party of the basis for its claim for relief.
- B. That notice will, if possible, be made before incurring any cost or expense and in accordance with any specific notice requirements contained in applicable Articles of the Contract.
- C. In the absence of any specific notice requirement, written notice will be given within a reasonable time, not to exceed 10 days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.

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11. CLAIMS AND DISPUTES – CONT'D

Requests for Contract Adjustments and Relief – Cont'd

D. Notice must include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of the request.

12. CLEAN UP

After all work under the Contract is completed, Contractor shall remove all loose concrete, lumber, wire, reinforcing, debris and other materials not incorporated in the work from the site of the work.

13. CONSTRUCTION METHODS

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

14. CONSTRUCTION PRACTICE

All construction practices and procedures shall conform to Section 107 of the Contract Work Hours and Safety Standards Act, (US Stat. 96, 40 USC 327) the latest revisions shall prevail.

15. CONSTRUCTION STAKES

Survey stakes and marks required for the completion of the construction shown on the plans and described in the specifications shall be furnished by the Contractor.

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16. CONTRACT COMPLETION TIME

All phases of work for this project will take place at night, between the hours of **9:00 PM and 6:00 AM**. Bid submittals shall be priced accordingly.

Contract time for construction shall be as follows to complete the work as indicated in the Notice to Proceed (NTP);

- BASE BID Contract time shall be eight (8) working days
 - BID ALTERNATE 1 Contract time shall be nine (9) working days
 - BID ALTERNATE 2 shall be eight (8) working days
- A. Contract Time shall start with the Notice to Proceed (NTP) and end with Substantial Completion. The City will issue an NTP letter(s) establishing the mutually agreed upon NTP date for this Contract.
1. Failure on the part of the Contractor to adhere to the Project Schedule may be the basis for
 2. termination of this Contract by the City.
- B. The Contractor agrees to commence performance of the work and achieve performance periods and the Contract time.
- C. All of the times stated in this paragraph are subject to adjustment in accordance with the provisions of Delay and Differing Site Conditions in the IFB.

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17. CONTRACTOR SAFETY PROGRAM

The industrial environment in which the Contractor for the City of Scottsdale operates may on occasion present a potential safety and health hazard to any who may be on the job site. All work shall be performed in compliance with all applicable federal, state and local laws, ordinances, statutes, rules and regulations including ADOSH policies and procedures. The Contractor will be required to attend a City safety briefing session at the pre-construction meeting.

The session shall be attended by the Contract Administrator, the designated Risk Management staff, and a Contractor's representative.

Contractor shall provide a current OSHA 300A report at the pre-construction meeting. Contractor shall provide a safe jobsite and work environment for the safety and health of employees and members of the general public and shall comply with all legal requirements, including but not limited to the following:

- Occupational Safety and Health Act (OSHA) Electrical Safe Work Practices Standards
- OSHA Personal Protective Equipment Standards
- NFPA 70E Standard for Electrical Safety in the Workplace
- OSHA Fall Protection Standards
- OSHA Confined Space Entry
- All other applicable requirements of OSHA and local codes and agencies having jurisdiction.

Contractors that violate the aforementioned rules and regulations may be subject to job shutdown and or removal from City facilities.

City Safety Rules and Expectations

Risk Management Division makes available a packet which contains the City's OSHA compliance guidelines, emergency evacuation, the City's safety and health plan, and other safety information.

Contractor Safety Tailgate Meetings

Contractor shall conduct tailgate safety meetings regularly to ensure that safety on the job is given priority.

Accident/Injury Procedure

Contractor shall notify the Contract Administrator and the Risk Management Division with 24 hours of the occurrence of an accident or injury arising out of the Contractor's work under this contract.

Unsafe Acts

Contractor employees are encouraged to abate or remedy any unsafe act or condition which may arise in the course of Contractor's work under this contract.

Safety Audits

The City reserves the right to conduct safety audits at the job site and stop unsafe acts at any time. In addition, the City shall be notified should any OSHA inspection occur at a City job site.

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18. CONTRACTOR'S DAILY LOG

On a daily basis, the Contractor shall prepare a Contractor's Daily Report. The City Public Works Inspector will provide a sample report format for the Contractor. The report shall detail the activities that took place during the course of the day, all equipment utilized, and the number of hours operated and all personnel on the site inclusive of subcontractors.

The Daily Reports shall be submitted on a daily basis, unless otherwise arranged, to the City Public Works Inspector. The Daily Reports shall also be made available to the Contract Administrator upon request.

Failure to provide Daily Reports as arranged or requested above will result in the retention of monthly progress payments until the Reports are brought up to date.

19. CONTRACTOR'S EMPLOYEES' IDENTIFICATION AND WORK APPAREL

All Contractor employees performing work under the scope of this contract shall wear conservative style uniform shirts that will have sewn on or embossed identification labels of the Contractors company name, and/or, logo, and will appear on the front area of the shirt near chest height of the shirt. Shirts may also have company name or logo appear on the backside of the shirt. Contract Administrator will approve proper identification on uniforms during the life of the contract.

Contractor shall provide employees with identification nametags to include name and picture of the employee and Contractor's company name and applicable logo. Employee will wear the nametag in plain view on his person at all times while performing the work under the scope of the contract. All employees shall have the supervisor's business cards available. In addition, the 'lead person' of each crew shall wear a badge clearly identifying the position of crew leader.

Contractor's employees shall wear uniform style slacks, "Levi" type slacks, or Bermuda type shorts. If shorts are worn they shall be of Bermuda style length (cut just above the knee). Cut-offs and short-shorts are not acceptable wearing apparel.

Outlandish styles, patterns, hats, colors of wearing apparel, verbiage imprinted on apparel, etc., worn by a Contractor Employee that may promote negativity in the work place, or advertise any product other than the Contractor's company name and/or logo will not be allowed.

Sandals, flip-flops, open-toed shoes are not acceptable footwear.

The Contract Administrator shall be the sole determinant of the appropriateness of all work apparel.

Contractor's shall insure that all employees performing any work at any location under the scope of this contract are furnished and use the proper Personal Protective Equipment (PPE) based on the type of work the employee is doing and the type of hazard the employee may encounter or be exposed to.

Walkman type radios or any apparatus, which may impede hearing or sight, will not be allowed. Earplugs and/or safety glasses are exempt.

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19. CONTRACTOR'S EMPLOYEES' IDENTIFICATION AND WORK APPAREL – CONT'D

The Contractor may instruct all employees, in advance, as to procedures in the event of a medical emergency.

If an injury to an employee is of sufficient nature to warrant immediate professional medical attention, the employee shall seek out proper medical attention immediately.

The employee shall notify the on-duty lead person (or supervisor) of any personal injury, including minor cuts, scrapes or burns. The on-duty lead person shall immediately notify the Contract Administrator of such injuries.

20. CONTROL OF MATERIALS

No material source has been designated by the City for use on this project.

MAG Specification, Section 106 shall apply as will ADOT Standard Specifications 1982, Section 106.01, .03, & .11 which outline controls and Section 1001-1, -2, & -4 concerning approval of Contractor furnished source and supplemental agreements in regard to environmental analysis and the liability for materials testing costs.

Contractor furnished material sources situated in the 100-year flood plain of any stream or watercourse and located within 1.0 mile upstream and 2.0 miles downstream of any highway structure or surfaced roadway crossing, shall not be allowed.

A Contractor furnished source shall be defined as a material source which is neither an A.D.O.T. furnished source nor a commercial source, as herein defined.

A commercial source shall be defined as a material source in which the owner or producer has been for at least one year regularly engaged during regular business hours on a regular basis in the processing and selling of sand, rock, ready mixed Portland cement concrete, asphaltic concrete and other similar products normally produced and sold to all parties. The company shall have an Arizona retail sales tax license.

The location of any new material source or existing non-commercial material source proposed for use on this project shall be reviewed by the appropriate agency having flood plain management jurisdiction over the area of proposed source location. Contractor shall obtain a letter from the agency addressed to the Contract Administrator certifying that the proposed source location conforms to the conditions herein and such applicable Standard Specifications as referenced.

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21. CONTROL OF THE WORK SITE

- A. Throughout all phases of construction, including suspension of the work, the Contractor must keep the site reasonably free from debris, trash and construction wastes to permit the Contractor to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the work, the Contractor shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the work to permit the City to occupy the Project or a portion of the Project for its intended use.
- B. **Dust Control.** The Contractor shall take whatever steps, procedures or means required to prevent abnormal dust conditions due to its construction operations in connection with this Contract. The dust control measures shall be maintained at all times during construction of the Project to the satisfaction of the City, in accordance with the requirements of the Maricopa County Health Department Air Pollution Control Regulations and City of Scottsdale Supplement to M.A.G. Standard Specifications together with applicable provisions of Federal and State Law.
- C. **Dust Control Coordinator.** At any City construction site with greater than 1 acre of disturbed surface area, subject to a permit issued by a Control Officer requiring control of PM-10 emissions from dust generating operations, the Contractor must have at all times at the Site, at least one Dust Control Coordinator trained in accordance with the requirements of A.R.S. §49-474.05 during primary dust generating operations that is related to the purposes for which the Dust Control Permit was issued. The Dust Control Coordinator must have full authority to ensure that dust control measures are implemented at the Site, including authority to conduct inspections, deploy dust suppression resources, and modify or shutdown activities as needed to control dust. The Dust Control Coordinator must be responsible for managing dust prevention and dust control on the Site, including the use of leaf blowers and street sweeping equipment. The Dust Control Coordinator must have a valid Dust Training Certification Identification Card readily accessible on the Site while acting as the Dust Control Coordinator.
- D. The requirements described in the above paragraph do not apply if Contractor can establish to the satisfaction of the Contract Manager that one of the exemptions under A.R.S. §49-474.05 applies.
- E. A Subcontractor who is engaged in dust generating operations at a Site that is subject to a Dust Control Permit issued by a County Control Officer and that requires the control of PM-10 emissions from dust generating operations must register with the County Control Officer. The Subcontractor must have its registration number readily accessible on the Site while conducting any dust generating operations.
- F. If applicable, the Contractor will maintain ADA and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements must include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. The Contractor is responsible for the coordination of all work to minimize disruption to building occupants and facilities.

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21. CONTROL OF THE WORK SITE – CONT'D

- G. Only materials and equipment used directly in the work will be brought to and stored on the site by the Contractor. When equipment is no longer required for the work, it will be removed promptly from the site. Protection of construction materials and equipment stored at the site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.
- H. The Contractor shall supervise and direct the work. The Contractor is solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor shall employ and maintain on the work a qualified supervisor or superintendent who has been designated in writing by the Contractor as the Contractor's representative at the site. The representative must have full authority to act on behalf of the Contractor and all communications given to the representative shall be as binding as if given to the Contractor. The representative must be present on the Site at all times as required to perform adequate supervision and coordination of the work. Where appropriate, all Provisions of M.A.G., Section 105.5, will be applicable.
- I. In the event of abnormal weather conditions, such as windstorms, rainstorms, etc., the Contractor shall immediately inspect the work site and take all necessary actions to ensure that public access and safety are maintained.
- J. **Damage to Property at the Site.** The Contractor is responsible for any damage or loss to property at the Site, except to the extent caused by the acts or omissions of the City or its representatives, employees or agents and not covered by insurance.
- K. **Damage to Property of Others.** The Contractor shall avoid damage, as a result of the Contractor's operations, to existing sidewalks, curbs, streets, alleys, pavements, utilities, adjacent property, the work of Separate Contractors and the property of the City. The Contractor shall repair any damage caused by the operations of the Contractor.
- L. **Failure of Contractor to Repair Damage.** If the Contractor fails to commence the repair of damage to property as required in paragraphs (I.) and (J.) above, and diligently pursue the repair, then the City, after 10 days written notice to the Contractor (provided the Contractor has not commenced the repair during the 10 day period), may elect to repair the damages with its own forces and to deduct from payments due or to become due to the Contractor amounts paid or incurred by the City in correcting the damage.

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22. COOPERATION AND FURTHER DOCUMENTATION

The Contractor agrees to provide the documents, as the City will reasonably request to implement the intent of the Contract documents.

23. COVENANTS AGAINST CONTINGENT FEES

The Contractor warrants that no person other than a bona fide employee working solely for the Contractor has been employed or retained to solicit or secure this Contract or any Contract or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this covenant, the City will have the right to annul this Contract without liability or at its discretion to deduct from the Contract Price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, together with costs and attorney's fees.

24. DAMAGED WATER, SEWER, AND OTHER UTILITIES

Any utilities damaged during construction shall be replaced at the Contractor's expense as per the requirements of the M.A.G. Standard Specifications.

25. DEFINITIONS

Definitions shall be as stated in Section 101.2 of the MAG STANDARD SPECIFICATIONS with the following additions:

CITY: City of Scottsdale

CONTRACT ADMINISTRATOR: Chris Read

DESIGNER: Mead & Hunt

OWNER: City of Scottsdale

26. DELAY AND DIFFERING SITE CONDITIONS

"Delay" means an unanticipated event or interference with the progress of a critical path work activity being performed at the time that causes the completion date of the project to be extended. Delays may be caused by the City, the Contractor, third parties or Force Majeure events. Delays may be excusable, compensable, non-compensable or concurrent.

"Delay, Compensable" means delay that results from the City's actions or inactions that entitle the Contractor to both a time extension and delay damages.

"Delay, Concurrent" means two (2) or more delays, within the same timeframe, both of which would independently impact the project's critical path. If one delay is caused by the City and the other by the Contractor, the Contractor will generally be entitled to an excusable, non-compensable time extension, to the degree the delays may "overlap."

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26. DELAY AND DIFFERING SITE CONDITIONS – CONT'D

"Delay, Excusable" means an unforeseeable delay caused by an event beyond the control and without the fault or negligence of the Contractor (including its suppliers and subcontractors). Excusable delays may be compensable or non-compensable, depending upon whether the terms of the contract or the law allows recovery of delay costs. Unless otherwise shown, these delays are presumed to be non-compensable.

"Delay, Non-Excusable" means a delay within the control of the Contractor, its suppliers and subcontractors, or a delay resulting from a risk taken by the Contractor under the terms of the Contract. The Contractor shall not be due any time extension or delay damages, and may be responsible for paying to the City, actual or liquidated damages for the delay.

"Differing Site Conditions" means concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ from the conditions indicated in the Contract documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.

27. DISPUTE AVOIDANCE AND RESOLUTION

- A. The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, the Contractor and the City each commit to resolving any disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the work.
- B. The Contractor and the City will first attempt to resolve disputes or disagreements at the field level through discussions between the Contractor's Representative and the Contract Administrator.
- C. The City has the option of requiring that the Contractor provide the disputed work by means of time and materials. The disputed work will be paid for according to daily submittals from the Contractor that has been accepted by the City. Wage and materials rates are to be established for involved trades and equipment before the start of the work.

28. DUMPING AND DISPOSAL OF WASTE

The waste product referred to herein shall become the property of the Contractor.

At its expense, the Contractor shall provide for the disposal at a legal off-site location for all waste products, debris, etc., and shall make necessary arrangements for such disposal. Any disposal/dumping of waste products or unused materials shall conform to applicable Federal, State and Local Regulations.

It is preferred that the City of Scottsdale's Solid Waste Division be considered as first choice for dumpster services. Contact Solid Waste Division at 480-312-5600 for pricing, availability and agreements.

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29. EXISTING TRAFFIC AND STREET SIGNS AND TRAFFIC SIGNAL EQUIPMENT

The Contractor shall use due care when excavating at or near intersections where traffic signal underground conduit is located. The Contractor shall notify the Transportation Maintenance Traffic Signal Division (480-312-5620), forty-eight (48) hours in advance of any work at such intersections.

The Contractor shall be responsible for the installation and maintenance of temporary overhead traffic signal cable as specified by the Traffic Engineering Director when underground conduit is to be severed by excavations at the intersection. The Transportation Maintenance Manager will have all underground traffic conduit located and shall provide the necessary City Technicians to assist the Contractor in identifying wiring phases and direction of conduit runs upon 24 hours' notice from the Contractor and at least one day prior to the Contractor's scheduled wiring and installation of temporary cables. The Contractor shall be responsible for the wiring and connection of all temporary cable within pull boxes and terminal compartments. The Transportation Maintenance Manager will provide a City technician to assist the Contractor with connecting field wiring within the traffic signal control cabinet.

The Contractor shall provide, at its expense, an off duty uniformed Police Officer to direct traffic while any traffic signal is non-operational. The Contractor shall be responsible as specified by the Traffic Engineering Manager for the repair and restoration of all traffic signal overhead and underground items that have been damaged or modified.

The Contractor shall be responsible for the maintenance and repair of any temporary field wiring of signal equipment. The Contractor shall ensure that signal faces are re-aligned to provide proper visibility when traffic lanes are re-routed.

The City does not permit the splicing of Magnetic Detector Loops.

30. EXISTING UTILITIES TO BE RELOCATED

If any utility is relocated or rebuilt to accommodate the Contractor's construction methods and available equipment, the expense shall be borne by the Contractor.

31. FINAL ACCEPTANCE

Upon receipt of written notice that the work or identified portions of the work are ready for final inspection and acceptance, the City and the Contractor will jointly inspect to verify that the remaining items of work have been completed as described above. Upon verification that the items have been satisfactorily completed, the City will issue a Final Acceptance Letter.

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32. GOVERNMENT APPROVALS AND PERMITS

The Contractor is responsible for securing any applicable permits and payment of any applicable taxes and fees associated with the Contract. Fees for City Building Permits and City Encroachment Permits will be waived by the City. All other fees and licenses are Contractor's responsibility.

- a) Scottsdale Revised Code, Chapter 31, Section 4, Division 3 prescribes the requirements for Building Permits. Permits must be obtained from the Development Services Office.
- b) Scottsdale Revised Code, Chapter 47, Section 3, Division 2 prescribes the requirements for Encroachment Permits. Permits must be obtained from the Development Services Office.
- c) Capital Project Management (CPM) Inspection must be notified before the beginning of work, and CPM Inspection will represent the City for the purpose of inspecting the work for conformance to Plans, Specifications and details as well as public safety requirements as authorized by City Code.
- d) Development Fees applicable to the Contract will be pre-paid by the City and need not be included in Contractor's bid.

Unless otherwise provided, the Contractor shall apply for and obtain or assist the City and the Design Team in obtaining all necessary permits, approvals and licenses required for the prosecution of the work from any government or quasi-government entity having jurisdiction over the project. The Contractor is specifically required to obtain the necessary environmental permits or file the necessary environmental notices. Any environmental permits and licenses will be paid by the City in accordance with the provisions of Construction Special Terms and Conditions Clause 10(E).

Copies of all necessary permits and notices must be provided to the Contract Administrator before starting the permitted activity. This provision is not an assumption by the City of an obligation of any kind for violation of the permit or notice requirements.

The Contractor shall apply for and obtain permit(s) for building and demolition, but the fees will be paid by the City in accordance with Construction Special Terms and Conditions Clause 10(E). The Contractor shall also obtain any reviews for all-necessary permitting, but the fees for the permitting may be paid by the City in accordance with Construction Special Terms and Conditions Clause 10(E).

The Contractor is responsible for all other review and permit fees not specifically listed in Construction Special Terms and Conditions Clause 10(E).

The Contractor is responsible for the cost of construction-related water meter(s), water and sewer taps, fire lines and taps, and all water bills on the Project meters until Substantial Completion of the Project. Arrangement for construction water is the Contractor's responsibility. Construction water does not include "test water" required to complete new water line pressure tests.

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33. GUARANTEE - WARRANTY

The provisions of M.A.G., Section 108.8 shall apply with the following additional requirements:

- A. Should the Contractor fail to begin repairs or corrective work within fourteen (14) calendar days after receipt of written notice from the City, the City may perform the necessary work and the Contractor hereby agrees to reimburse the City for the actual cost.
- B. The warranty period on any part of the work so repaired or replaced shall be extended for a period of twelve (12) months from the date of such repair or replacement.
- C. This guarantee will not apply to damage caused by normal wear and tear or by acts beyond the Contractor's control.

34. HINDRANCES AND DELAYS

In the event that the Contractor sustains damages as a result of expenses incurred by a delay for which the City is responsible, the Contractor and the City shall negotiate to determine the amount of such damages. This provision is made pursuant to Arizona Revised Statutes Section 34-221 and is effective only if the delay caused by the City is unreasonable under the circumstances and was not within the contemplation of the parties. This provision shall not be construed to void any provision of this contract pertaining to notice of delays, arbitration or other settlement provisions applicable to disputes, or provisions relating to liquidated damages.

35. HOURS OF WORK

Non-Building Construction:

All work/construction shall occur at night between the hours of 9:00 P.M. and 6:00 A.M.

Building Construction:

- A. All building construction and associated work will be restricted to the applicable summer or winter hours. Construction activity will include any work requiring the use of manually operated or power assisted tools or equipment and vehicles used to excavate, erect or deliver materials associated with construction. Summer hours begin April 1 and end on October 31. No work may begin before 6:00 a.m. or continue after 7:00 p.m., Monday through Friday. No work will begin on Saturday or Sunday before 7:00 a.m. or continue after 7:00 p.m. Sunday work may be conducted only if the Contractor demonstrates, in writing to the Building Official, justifiable cause for the Sunday work.

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35. HOURS OF WORK – CONT'D

Building Construction – Cont'd

- B. Winter hours begin November 1 and end on March 31. No work will begin before 7:00 a.m. or continue after 5:00 p.m., Monday through Friday. No work may begin on Saturday or Sunday before 8:00 a.m. or continue after 5:00 p.m. Sunday work may be conducted only if the Contractor demonstrates, in writing to the Building Official, justifiable cause for the Sunday work.
- C. The City may establish other times of work as necessary based on the geographical location of the jobsite in relation to surrounding occupancies, buildings and structures.
- D. The Contractor must submit a written request to the Building Official for a variance from the required work hours at least 7 days before the date for which the variance is desired. Variances will not be granted for more than 30 days at a time. A new application must be made for each additional variance. The Contractor must notify adjacent property owners of the intended work and the duration of the requested variance. Proof of notification must be presented to the Building Official before the variance can be granted.
 - 1. The application for the variance must demonstrate justifiable cause why the work must be done outside the prescribed time period (e.g. pouring concrete during "summer hours"). A variance will not be granted based solely on convenience or for work that can be completed during daytime construction hours.
 - 2. The application for a variance must state the construction permit number, the address of the work, type of work, time period of the work, and the duration of the variance.

The variance will state the permit number, address, type of Work, time period of the Work and the duration of the variance. The party requesting the variance will be responsible for notifying the adjacent property owners of the intended Work and the duration of time. Nothing contained in this Contract will limit construction activity or construction related noises between sunrise and sundown.

36. INDEMNIFICATION

Contractor's General Indemnification

To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, must defend, indemnify and hold harmless City of Scottsdale, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any act or omission, negligence, recklessness, or intentional wrongful conduct by Contractor in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees.

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36. INDEMNIFICATION – CONT'D

Contractor's General Indemnification – Cont'd

Insurance provisions in this Contract are separate and independent from the indemnity provisions of this section and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

37. INDEPENDENT CONTRACTOR

The Contractor is and will be an independent contractor and not an employee or agent of the City.

38. INSPECTION

- A. Inspectors may be stationed on the Work to report to the Contract Administrator or his Designee as to the progress of the Work, the manner in which it is being performed, and also to report whenever it appears that material furnished, or work performed by the Contractor fails to fulfill the requirements of the specifications and contract. The Inspector may direct the attention of the Contractor to such failure or infringement, but such inspection shall not relieve the Contractor from any obligation to furnish acceptable materials or to provide completed construction that is satisfactory in every particular.
- B. In case of any dispute arising between the Inspector and the Contractor as to material furnished or the manner of performing the work, the Inspector shall have the authority to reject materials or suspend the work until the question and issue can be referred to and decided by the City. Inspectors are not authorized to revoke, alter, enlarge, relax, or release any requirements of the specifications. Inspectors shall in no case act as foremen or perform other duties for the Contractor or interfere with the management of the work by the Contractor.
- C. Inspection or oversight by the Contract Administrator or Designee shall not be considered as direct control of the individual workman and his work. The direct control shall be solely the responsibility of the Contractor.

39. INSURANCE REQUIREMENTS

- A. At the same time as execution of this Contract, the Contractor will furnish the City of Scottsdale a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona.

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39. INSURANCE REQUIREMENTS – CONT'D

- B. The Contractor, Subcontractors and Subconsultants must procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property, which may arise from or in connection with the performance of the Work by the Contractor, his agents, representatives, employees, or Subcontractors. If any work under this agreement is subcontracted in any way, Contractor must execute a written agreement with its subcontractor containing the same Indemnification Clause and Insurance Requirements stated in this Contract protecting City of Scottsdale and Contractor. Contractor will be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements
- C. The insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.
- D. The City in no way warrants that the minimum limits contained in this Contract are sufficient to protect the Contractor from liabilities that might arise out of the performance of the Contract services under this Contract by the Contractor, his agents, representatives, employees, Subcontractors or Subconsultants and the Contractor is free to purchase any additional insurance as may be determined necessary.

Minimum Scope and Limits of Insurance

The Contractor will provide coverage and with limits of liability not less than those stated below.

A. Commercial General Liability - Occurrence Form

Commercial General Liability: Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate limit. The General Liability/General Aggregate Limit must be a Per Location General Aggregate. The policy must cover liability arising from premises, operations, independent contractors, and personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

B. Automobile Liability - Any Auto or Owned, Hired and Non-Owned Vehicles

Vehicle Liability: If any vehicle is used in the performance of the Scope of Work that is the subject of this Contract, the Contractor must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Contract. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

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39. INSURANCE REQUIREMENTS – CONT'D

Minimum Scope and Limits of Insurance – Cont'd

C. Workers' Compensation and Employers Liability

Insurance: Contractor must maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes applicable to Contractor's employees engaged in the performance of work or services under this Contract and must also maintain Employers' Liability Insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit. If the Contractor is a sole proprietor or a single member limited liability company with no employees and has elected not to purchase workers' compensation insurance; a completed and signed Workers' Compensation Waiver form will substitute for the insurance requirement.

Professional Liability: If the Contract is the subject of any professional services or work performed by the Contractor, or if the Contractor engages in any professional services or work adjunct or residual to performing the work under this Contract, the Contractor must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by the Contractor, or anyone employed by the Contractor, or anyone whose acts, mistakes, errors and omissions the Contractor is legally liable, with a liability limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage will extend for 3 years past completion and acceptance of the work or services, and the Contractor, or its selected Design Professional shall submit Certificates of Insurance as evidence the required coverage is in force and contains the required provisions for a 3-year period.

If there is no Professional Liability work or service as a part of this Contract, the City will waive the Professional Liability insurance requirement in writing.

Required Provisions and Endorsements

The policies are to contain, or be endorsed to contain, the following provisions:

A. Commercial General Liability and Automobile Liability Coverage

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.
2. The Contractor's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.

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39. INSURANCE REQUIREMENTS – CONT'D

Required Provisions and Endorsements – Cont'd

A. Commercial General Liability and Automobile Liability Coverage – Cont'd

3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
4. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees must be in excess of the coverage provided by the Contractor and must not contribute to it.
5. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Contract.
7. The policies must contain a waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
8. The Contractor, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Contract for a minimum period of 3 years following completion and acceptance of the Work. The Contractor must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3-year period containing all the Contract insurance requirements, including naming the City of Scottsdale, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.

Claims Made: In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall continue uninterrupted throughout the term of this Contract by keeping coverage in force using the effective date of this Contract as the retroactive date on all "claims made" policies. The retroactive date for exclusion of claims must be on or before the effective date of this Contract and can never be after the effective date of this Contract. Upon completion or termination of this Contract, the "claims made" coverage shall be extended for an additional three (3) years using the original retroactive date, either through purchasing an extended reporting option; or by continued renewal of the original insurance policies. Submission of annual Certificates of Insurance, citing the applicable coverages and provisions specified herein, shall continue for three (3) years past the completion or termination of this Contract.

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39. INSURANCE REQUIREMENTS – CONT'D

Required Provisions and Endorsements – Cont'd

A. Commercial General Liability and Automobile Liability Coverage – Cont'd

9. Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
10. Workers' Compensation and Employers Liability Coverage: The insurer must agree to waive all rights of subrogation against the City, its officers, officials, agents, employees, and volunteers for losses arising from Work performed by the Contractor for the City.

Builders' Risk and Installation Floater Insurance (Course of Construction)

Builders' Risk: The Contractor bears all responsibility for loss to all Work being performed, materials waiting to be installed, and to buildings under construction. Unless waived in writing by the City of Scottsdale, the Contractor will purchase and maintain in force Builders' Risk and Installation insurance on the entire Work until completed and accepted by the City. This insurance will be Special Causes of Loss or Open Perils policy form. The policy shall be endorsed to cover flood losses if the project is located in a High Hazard or Moderate Hazard Flood Zones. The policy limit shall be adequate to allow for replacement cost equal to the contract value and all subsequent modifications.

1. Builders' Risk and Installation Floater must name the City of Scottsdale, the Contractor and all tiers of Subcontractors as Insureds as respects their insurable interest at the time of loss. Subcontractors and Subconsultants may provide separate coverage if they are able to provide the same level of coverage and coverage provisions with the City named as loss payee.
2. The insurance must contain a provision that this insurance will not be canceled or materially altered without at least 30 days advance notice to the City. The Contractor is also required to give the City 30 days advance written notice of the coverage termination for this project.
3. Builders' Risk and Installation insurance must cover the entire Work including reasonable compensation for architects and engineers' services and expenses and other "soft costs" made necessary by an insured loss. Builders' Risk and Installation insurance must provide coverage from the time any covered property comes under the Contractor's control and or responsibility, and continue without interruption during course of construction, renovation and or installation, including any time during which any project property or equipment is in transit, off site, or while on site for future use or installation. Insured property must include, but not be limited to, scaffolding, false work, and temporary buildings at the site. This insurance must also cover the cost of removing debris, including demolition and construction up-grades as may be legally required by operation of any law, ordinance, regulation or code.

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39. INSURANCE REQUIREMENTS – CONT'D

Builder's Risk Insurance (Course of Construction) – Cont'd

4. The Contractor must also purchase and maintain Boiler and Machinery insurance with the same requirements as Builder's Risk and Installation Floater insurance cited above if the Work to be performed involves any exposures or insurable property normally covered under a Boiler and Machinery insurance policy or made necessary as required by law or testing requirements in the performance of this Contract.
5. The Contractor will be responsible for any and all deductibles under these policies and the Contractor for themselves and their insurer waives all rights of recovery and subrogation against the City for any claims or losses under the Contractor provided Builders' Risk and Installation Floater insurance described above.
6. The Builders' Risk insurance must be endorsed so that the insurance will not be canceled or lapse because of any partial use or occupancy by the City. Builders' Risk insurance must be maintained until whichever of the following first occurs: (i) final payment has been made; or, (ii) until no person or entity, other than the City, has an insurable interest in the property required to be covered.
7. The Contractor's Builders' Risk and Installation Floater insurance must be primary and not contributory to any insurance carried by the City.

40. ISRAEL BOYCOTT PROHIBITION

By executing this contract, [Contractor] certifies that it is not currently engaged in and will not for the duration of this contract engage in boycott activity proscribed by A.R.S. § 35-393 et seq.

41. FORCED LABOR OF ETHNIC UYGHURS

Contractor warrants and certifies that it does not currently, and agrees for the duration of the contract that it will not, use:

- 1) The forced labor of ethnic Uyghurs in the People's Republic of China.
- 2) Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- 3) 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.

If Contractor becomes aware during the term of the Agreement that the Contractor is not in compliance with this paragraph, the Contractor shall notify the City within five business days after becoming aware of the noncompliance. Failure of Contractor to provide a written certification that the Contractor has remedied the noncompliance within one hundred eighty (180) days after notifying the public entity of its noncompliance, this Agreement shall terminate unless the Term of this Agreement shall end prior to said one hundred eighty (180) day period.

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42. LEGAL REQUIREMENTS

The Contractor will perform all work in accordance with all Legal Requirements and will provide all notices applicable to the work as required by the Legal Requirements.

43. LIQUIDATED DAMAGES

The Contractor understands that if Substantial Completion is not attained within the Contract Time as adjusted, the City will suffer damages which are difficult to determine and accurately specify.

In such event, the Contractor shall pay as liquidated damages the amounts specified in Section 108.9 of the M.A.G. Standard Specifications, incorporated in this Contract by reference. To view and obtain copies of the M.A.G. Standard Specifications and the City of Scottsdale's supplements, please view the following City website: <http://www.scottsdaleaz.gov/design/mag-supplements>

44. MARSHALLING YARD

Contractor shall contact the City of Scottsdale Development Services to determine the requirements for obtaining a permit for marshalling areas it proposes to use.

Marshalling areas shall be fenced with opaque slats. The Contractor shall also obtain written approval from the property owner for marshalling area use. This approval shall contain any requirements which are a condition of this approval. Marshalling yard requirements according to M.A.G. Subsection 107.6.1 and City of Scottsdale Supplemental Specifications shall apply.

45. MUTUAL OBLIGATIONS

The City and the Contractor commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

46. NATIVE PLANTS

The Contractor shall take whatever steps, procedures or means necessary to remove, move, displace and save all native plants within the contract work area in accordance with the City of Scottsdale's Ordinance No. 1438, Native Plants, and all applicable state and county statutes, ordinances, codes and other policy requirements and recognized methods, procedures, techniques and equipment for protection, salvage, and handling of all plants to be moved from the construction area. Provided, however, this is not a pay item unless specified upon the Schedule of Bid Items.

47. NOTICE

All notices or demands required to be given, in accordance with the terms of this Contract, shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses stated below, or to any other address the parties may substitute by written notice given in the manner prescribed in this paragraph. Notice given by facsimile or electronic mail will not be considered adequate notice.

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47 NOTICE – CONT'D

To City: City of Scottsdale
Scottsdale Airport
Chris Read
15000 North Airport Drive, Suite 285
Scottsdale, Arizona 85260

To CONTRACTOR: Company Name
Owner Name/Project Manager
Address
City, State, Zip

48. NOTICE OF CANCELLATION

Each insurance policy required by the insurance provisions of this Contract must provide the required coverage and must not be suspended, voided, canceled by either party, reduced in coverage or in limits except until after 30 days written notice or 10 days' notice of cancellation for non-payment of premiums has first been given, by certified mail, return receipt requested to:

City of Scottsdale
Risk Management Office
7447 East Indian School Road, Suite #225
Scottsdale, Arizona 85251

49. PAYMENT AND PERFORMANCE BONDS

Bonds in the following amounts will be required at the time of executing the formal contract and shall be made payable to the City of Scottsdale.

(1) Performance Bond - One Hundred (100%) percent of the Contract price.

(2) Payment Bond - One Hundred (100%) percent of the Contract price.

At the time of approval of any additional work by Change Order, the Contractor may be required to provide an additional amount for Performance Bond and/or Payment Bond as deemed appropriate by the Contract Administrator or designee.

Performance and Payment Bonds must be submitted on Statutory Forms provided herein.

Each 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 State Department of Insurance pursuant to Arizona Revised Statutes Title 20, Chapter 2, Article 1. The bonds shall not be executed by an individual or personal surety or sureties. Additionally, the surety company issuing any bond shall have an A.M. Best Company Inc. Financial Strength Rating of not less than "A-VI".

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50. PROCEDURE FOR PAYMENT

For and in consideration of the faithful performance of the work required to be done by the Contract Documents, and in accordance with the directions of the City and to its satisfaction, the City agrees to pay the Contractor the amount stated in its bid for the work. Payment for the specific work under this Contract will be made in accordance with payment provisions of this paragraph. Upon making satisfactory progress as described above, the City will make progress payments to the Contractor every 30 days.

Partial Payment Request

- A. At least 5 working days before the date established for a progress payment, the Contractor shall meet with the Construction Coordinator or CPM Inspector to review the progress of the work, as it will be reflected on the Contractor Payment Request.

The Contractor Payment Request will constitute the Contractor's representation that the work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Contractor Payment Request, and that title to all the work will pass to the City free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the work into the project.

- B. The Contractor's Payment Request may request payment for equipment and materials already purchased but not yet incorporated into the project if construction progress is in reasonable conformance with the approved schedule.
- C. For equipment and materials properly stored at the site, the equipment and materials shall be protected by suitable insurance and the City shall receive the equipment and materials free and clear of all liens and encumbrances.
1. For materials and equipment stored off the site, the City must approve the storage. The material and equipment must be stored within Maricopa County and be accessible for the City's inspection. Title to the materials and equipment shall protect the City's interest and shall include applicable insurance, bonding, storage and transportation to the site.
 2. All bonds and insurance required for stored materials shall be in the City's name.
- D. The Contractor shall submit a Payment Request in a format acceptable to the City on a date established by the City and the Contractor. This submittal shall include, at a minimum, a narrative description of the tasks accomplished during the billing period, a listing of any deliverables submitted, and the Subcontractors' actual request for payment plus similar narrative and listing of their work.

Payments for those services negotiated as a fixed unit price will be made in accordance with actual measured quantities completed during the preceding month as itemized by the Contractor. Payment for services paid as a lump sum will be made in accordance with the percentage of the services completed during the preceding month as itemized. Those services to be paid as a not-to-exceed reimbursable sum will be paid in accordance with the actual costs of the service expended during the preceding month.

CONSTRUCTION SPECIAL TERMS AND CONDITIONS



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50. **PROCEDURE FOR PAYMENT – CONT'D**

The City will review payment requests and make recommendations for approval or denial within seven (7) calendar days after the City's receipt of each properly submitted and accurate Construction Payment Request, but in each case less the total of payments previously made, and less amounts properly withheld as Required Retention.

Payment

- A. The City will issue payment in accordance with A.R.S. §34-221. Payment will be made no later than 14 days after the Contractor Payment Request is certified and approved by the City's Contract Administrator, less amounts properly retained as Required Retention.
- B. The City will pay the Contractor all amounts properly due. If the City determines that the Contractor is not entitled to all or part of a Contractor Payment Request, it will notify the Contractor in writing within 7 days after the date the Contractor Payment Request is received by the City. The notice will indicate the specific amounts the City intends to withhold, the reasons and contractual basis for the withholding, and the specific measures the Contractor must take to rectify the City's concerns. The Contractor and the City will attempt to resolve the City's concerns. If the parties cannot resolve these concerns, the Contractor may pursue its rights under the Contract Documents, including those under the provisions for Claims and Disputes.

Required Retention

- A. The City will retain 10% of each Contractor Payment Request amount, but when 50% of the Work has been completed by the Contractor, one-half of the amount retained, including any substituted securities, may be paid to the Contractor if the Contractor is making satisfactory progress on the Contract, and there is no specific cause or claim requiring a greater amount to be retained. If, however, the City determines that satisfactory progress is not being made on the Contract, the City may reinstate the 10% retention for all remaining progress payments.
- B. In lieu of retention, the Contractor may provide as a substitute, an assignment of time certificates of deposit (CDs) from a bank licensed by the State of 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.
 - 1. Securities deposited in lieu of retention must be deposited into a separate account with a bank having a branch located in the City of Scottsdale.
 - 2. CDs and Securities will be assigned exclusively for the benefit of the City of Scottsdale in accordance with the City's form of Retainage Escrow Contract.

Upon Substantial Completion of the entire work or, if applicable, any portion of the work, the City may release to the Contractor all retained amounts relating, as applicable, to the entire work or completed portion of the work, not to exceed two and one-half times (2.5) the reasonable value of all remaining or incomplete items of work as noted in the Certificate of Substantial Completion.

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50. PROCEDURE FOR PAYMENT – CONT'D

Final Payment

- A. After receipt of a final Contractor Payment Request, the City will make final payment 60 days after receipt by the City, provided that the Contractor has completed all of the Work in conformance with the Contract Documents and the City has issued a Final Acceptance Letter.
- B. At the time of submission of its final Contractor Payment Request, the Contractor shall provide the following information:
 - 1. An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect the City's interests;
 - 2. An affidavit regarding settlement of claims executed by the Contractor waiving, upon receipt of final payment by the Contractor, all claims, except those claims previously made in writing to the City and remaining unsettled at the time of final payment; and
 - 3. Consent of the Contractor's surety, if any, to final payment.

Payments to Subcontractors or Supplier

- A. The Contractor will pay its Subcontractors or suppliers within 7 calendar days of receipt of each progress payment from the City. The Contractor shall pay for the amount of the 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 may result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. The Contractor shall pay Subcontractors or suppliers the reduced retention within 14 calendar days of the payment of the reduction of the retention to the Contractor. No Contract between the 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 in this Contract.
- B. If the Contractor fails to make payments in accordance with these provisions, the City may take any of one or more of the following actions:
 - 1. To hold the Contractor in default under this Contract;
 - 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 offers to perform work for the City from the Contractor for a period not to exceed one year from Substantial Completion date of this project; and/or
 - 4. Terminate this Contract.

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50. PROCEDURE FOR PAYMENT – CONT'D

Payments to Subcontractors or Supplier - Cont'd

- C. If the Contractor's payment to a Subcontractor or supplier is in dispute, the Contractor and Subcontractor or supplier agree to submit the dispute to any one of the following dispute resolution processes within 14 calendar days from the date any party gives notice to the other: (a) binding arbitration; (b) a form of alternative dispute resolution (ADR) agreeable to all parties, or (c) a City of Scottsdale facilitated mediation. When a disputed claim is resolved through ADR or otherwise, the Contractor and Subcontractor or supplier agrees to implement the resolution within 7 calendar days after the resolution date.
- D. Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this paragraph, this failure or delay will not be considered a waiver, release or modification of the requirements of this paragraph or of any of the terms or provisions of this Contract.
- E. The Contractor shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Contract.

51. PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK

The Contractor shall properly guard and protect all finished or partially finished work and shall be responsible for the same until the entire contract is completed and accepted by the City.

Any payment for completed portions of the work shall not release the Contractor from such responsibility, however; Contractor shall turn over the entire work in full accordance with these specifications before final settlement shall be made.

In case of suspension of the work for any cause whatever, the Contractor shall be responsible for the Project and shall take such precautions as may be necessary to prevent damage to the Project and shall erect any necessary temporary structures, signs, or other facilities at no cost to the City.

52. PUNCH LIST PREPARATION

A minimum of 30 days prior to Substantial Completion, the Contractor, in conjunction with the City and the Designer of Record, will prepare a comprehensive list of Punch List items, which the City may edit and supplement. The Contractor shall proceed promptly to complete and correct the Punch List items.

Failure to include an item on the Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall not commence until the date of Final Acceptance unless otherwise provided in the Contract Documents. Seven (7) days before the City issues its Final Acceptance Letter, the Contractor shall deliver to the City all Operation and Maintenance Manuals necessary for the City to assume responsibility for the operation and maintenance of that portion of the Work.

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53. REPRESENTATIVES OF THE PARTIES

A. Contract Administrators

The City designates the individual listed below as its Senior Representative ("City's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes:

City of Scottsdale
Capital Project Management
Daniel J. Worth, Public Works Director
7447 E. Indian School Road, Suite 205
Scottsdale, Arizona 85251

The City designates the individual listed below as its Contract Administrator:

City of Scottsdale
Scottsdale Airport
Chris Read
15000 North Airport Drive, Suite 285
Scottsdale, Arizona 85260

B. Contractor's Representative

The Contractor will provide to the City at or before the Preconstruction meeting, the names of its Senior Representative ("Contractor's Senior Representative") and Project Manager, who have the authority and responsibility for avoiding and resolving disputes.

, Contractor Representative

54. RIGHTS-OF-WAY

The M.A.G. Standard Specification 107.12 shall be modified to read as follows: The Contractor, at its own expense, is responsible for the acquisition of any necessary temporary easements for construction purposes, storage and maintenance purposes, which are required in addition to existing easements and/or rights of way secured by the City as indicated upon the plans.

55. SCOPE

The Work covered by these Specifications consists of furnishing all labor, equipment and materials for construction of Airport Perimeter Rd Reconstruction Project in accordance with "THE INSTRUCTIONS TO BIDDERS", "GENERAL TERMS AND CONDITIONS", "SPECIAL PROVISIONS", and the "PLANS" prepared by Mead & Hunt consisting of twenty-six (26) sheets and dated October 2022.

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56. STANDARD SPECIFICATIONS AND DETAILS

Except as otherwise noted, construction of this project and all work done under this Contract shall be in accordance with these specifications and all applicable UNIFORM STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION sponsored and distributed by Maricopa Association of Governments (MAG) and MAG STANDARD DETAILS including the latest approved revisions and City of Scottsdale supplements thereto in force at the time of bid advertisement, which shall be referred to hereinafter as the "STANDARD SPECIFICATIONS". In all cases where accepted standards (AWWA, ANSI, AASHTO, ADOT, ASTM, etc.) are referred to in the "STANDARD SPECIFICATIONS", the latest revisions as of bid advertisement shall prevail. To view and obtain copies of the M.A.G. Standard Specifications and the City of Scottsdale's supplements, please view the following City website:

<http://www.scottsdaleaz.gov/design/mag-supplements>

City of Scottsdale Supplements as revised and the "GENERAL TERMS AND CONDITIONS" AND "SPECIAL PROVISIONS" of these specifications provide for the supplementation, modification and/or amendments to the STANDARD SPECIFICATIONS.

City of Scottsdale Supplements as revised and the "FAA GENERAL PROVISIONS", "SPECIAL PROVISIONS" AND "TECHNICAL PROVISIONS" referenced herein shall provide for the supplementation, modification and/or amendments to the STANDARD SPECIFICATIONS.

57. ORDER OF PRECEDENCE

In the event of a conflict in the provisions of this solicitation or resulting Contract, as accepted by the City and as the Solicitation or resulting Contract may be amended, the following shall be the order of precedence:

1. Signed and Fully Executed Separate Contract
2. Special Terms and Conditions of the Solicitation
3. General Terms and Conditions of the Solicitation
4. Special Provisions from City of Scottsdale Capital Project Management (by the designer that describes bid items and project specific considerations, e.g., quality control, sequence of activities, submittals and shop drawings).
5. Statement of Scope of Work (SOW)/Specifications/Technical Provisions/Technical Specifications - (Designer's specifications of materials and general conditions of work-means and methods. Street, w/s projects use term Technical Specifications. Building Projects use Construction Specification Institute format).
6. Plans/Drawings (consisting of the designer's/engineer's drawings/sheets.)

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57. ORDER OF PRECEDENCE – CONT'D

7. Attachments
8. Exhibits
9. Instructions to Bidders
10. Other documents referenced or included in the solicitation or contract.

Such As:

- a. Technical or code requirements or documents that govern construction materials and design-ICC, etc.
- b. City Supplements to MAG Uniform Standard Specifications for Public Construction.
- c. MAG Standard Specifications for Public Works Construction (unless a Federal Aid project).
- d. MAG Standard Details.
- e. Federal Requirements - ADOT/FHWA/FTA/FAA, etc., requirements. (Where Federal funds are provided for the project, Federal procurement and contract provisions may take precedence of the above Order of Precedence. If Federal procurement and contract provisions take precedence, the City's Order of Precedence will only control when not in conflict with the Federal procurement and contract provisions. Where there is a conflict, the Federal procurement and contract provisions will control).

58. SUBCONSULTANTS AND SUBCONTRACTOR'S INSURANCE

Unless the Contractor's Subconsultants and Subcontractors can provide the same level of coverage as detailed in the Minimum Scope and Limits of Insurance provisions, and name the City and the Contractor as Additional Insureds, the Contractor's certificates must include all Subcontractors and Subconsultants as insureds under its policies or the Contractor must maintain separate certificates and endorsements for each Subcontractor and Subconsultant. All coverage for Subcontractors and Subconsultants must be in the amounts as required in the Minimum Scope and Limits of Insurance provisions. Certificates must contain a provision that the insurance will not be canceled or materially altered without at least 30 days advance notice to the City.

59. SUBLETTING OF CONTRACT

The City of Scottsdale is hereby requiring the following level of self-performance of this Contract as indicated by the one checked block that applies:

- ☐ Pursuant to ADOT/FHWA Special Terms and Conditions for Federally Funded Projects, Form 12-73, Section VII Paragraph 1, the City of Scottsdale on this Contract is requiring that the Contractor shall perform with its own organization, work amounting to not less than **30%** of the total original contract price, excluding any specialty items.

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58. SUBLETTING OF CONTRACT – CONT'D

- ☐ Pursuant to MAG 108.2(E), the City of Scottsdale, on this Contract for pipeline construction, roadway construction or roadway maintenance, is requiring that the Contractor shall perform with its own organization, work amounting to not less than **50%** of the total original contract price, excluding any specialty items.
- ☒ Pursuant to MAG 108.2, the City of Scottsdale, on this Contract, is requiring that the Contractor shall perform with its own organization, work amounting to not less than **50%** of the total original contract price, excluding any specialty items.

Specialty items shall be construed to be limited to work that requires highly specialized knowledge, abilities or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the Contract as a whole and in general are limited to minor components of the overall Contract.

All subletting shall be subject to the approval of the City and will not relieve the Contractor of any liability or responsibility of the Contract.

60. SUBSTANTIAL COMPLETION

Substantial Completion shall be for the entire Project unless a partial Substantial Completion is identified and stated in the Notice to Proceed letter. Substantial Completion means when the Work, or when an agreed upon portion of the Work is sufficiently complete so that the City can occupy and use the Project or a portion of it for its intended purposes. This may include, but is not limited to: (a) approval by the City Fire Marshall and local authorities (Certificate of Occupancy); (b) issuance of elevator permit; (c) demonstration to the City that all systems are in place, functional, and displayed to the City or its representative; (d) installation of all materials and equipment; (e) City review and acceptance of all systems; (f) City review and acceptance of draft O&M manuals and record documents; (g) City operation and maintenance training completed; (h) HVAC test and balance completed (provide minimum 30 days before projected substantial completion); (i) completed landscaping and site work; and (j) final cleaning, and (j) any other criteria in the Notice to Proceed.

- A. Before requesting a Certificate of Substantial Completion, the Contractor must prepare a punch list as set forth in section 51.
- B. The Contractor will notify the City when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete.
- C. Within 5 days of the City's receipt of the Contractor's notice, the City and the Contractor will jointly inspect the Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents.

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59. SUBSTANTIAL COMPLETION – CONT'D

D. If the Work is substantially complete, the City will prepare and issue a Certificate of Substantial Completion that will establish (i) the date of Substantial Completion of the Work or portion of the work, (ii) the remaining items of work that have to be completed within 30 calendar days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing the City's and the Contractor's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

1. The City, at its option, may use a portion of the work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of work, (ii) the Contractor and the City have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) the City and the Contractor agree that the City's use or occupancy will not interfere with the Contractor's completion of the remaining work.

61. SUPERVISION BY CONTRACTOR

The Contractor will supervise and direct the work. It will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site.

The representative shall have full authority to act on behalf of the Contractor and all communications given to the representative shall be as binding as if given to the Contractor. The representative shall be present on the site at all times as required to perform adequate supervision and coordination of the work. Where appropriate all Provisions of M.A.G., Section 105.5, will be applicable.

62. SUSPENSION AND TERMINATION

City's Right to Stop Work

The City may, at its discretion and without cause, order the Contractor in writing to stop and suspend the work. Immediately after receiving this notice, the Contractor must discontinue advancing the work specified in this Contract. The suspension may not exceed 180 consecutive days. If the City suspends the work for 181 consecutive Days or more, the suspension may be treated as a Contract termination for convenience.

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

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61. SUSPENSION AND TERMINATION – CONT'D

Termination for Convenience

A. Upon written notice to the Contractor, the City has the right to terminate this Contract or abandon any portion of the Project for which services have not been performed by the Contractor.

1. The Contractor will estimate the value of the work it has completed and submit its appraisal to the City for evaluation. The City will have the right to inspect the work to appraise the work completed.

The Contractor will receive compensation for services performed to the date of termination as provided in the provisions for Delay and Differing Site Conditions. The fee will be paid in accordance with the Payment provisions of this Contract and will be an amount mutually agreed upon by the Contractor and the City. If there is no mutual agreement, the final determination will be made in accordance with the Claims and Dispute provisions.

2. The Contractor will not be entitled to anticipated profit or anticipated overhead but is entitled to recover apportioned profit and overhead proportional to the amount of the Work completed. In no event will the fee exceed that stated this Contract or as may be subsequently amended.
3. The City will make the final payment within 60 days after the Contractor has delivered the last of the partially completed items and the final fee has been agreed upon.

If the City terminates this Contract in accordance with the provisions of this paragraph and proceeds to construct the Project through its employees, agents or third parties, the City's rights to use the work product will be as provided in the provisions providing for the City's Right to Perform and Cancel for Cause.

B. Upon any termination during construction services, the Contractor shall proceed with the following obligations:

1. Stop Work as specified in the notice.
2. Place no further subcontracts or orders.
3. Terminate all subcontracts to the extent they relate to the work terminated.
4. Assign to the City all right, title and interest of the Contractor under the subcontracts terminated, in which case the City will have the right to settle or to pay any termination settlement proposal arising out of those terminations.
5. Take any action that may be necessary for the protection and preservation of the property related to the Contract that is in the possession of the Contractor and to which the City has or may acquire an interest.
6. Comply with the Final Payment paragraph above.

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61. SUSPENSION AND TERMINATION – CONT'D

Termination for Convenience – Cont'd

7. An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the work which will in any way affect the City's interests; and
 8. A general release executed by the Contractor waiving, upon receipt of final payment by the Contractor, all claims, except those claims previously made in writing to the City and remaining unsettled at the time of final payment.
- C. The Contractor will submit complete termination inventory schedules no later than 60 days from the date of the notice of termination.
- D. The City will pay Contractor the following:
1. The direct value of its completed work and materials supplied as of the date of termination;
 2. The reasonable costs and expenses attributable to any termination; and
 3. The Contractor will be entitled to profit and overhead on completed work only but will not be entitled to anticipated profit or anticipated overhead. If it appears the Contractor would have sustained a loss on the entire work had the Project been completed, the Contractor will not be allowed profit and the City will reduce the settlement to reflect the indicated rate of loss.
- E. The Contractor will maintain all records and documents for three (3) years after final settlement. These records will be maintained and subject to the auditing provisions.

Termination for Cause:

City may also terminate this Contract or any part hereof with seven (7) days' notice for cause in the event of default. Late deliveries, deliveries of products which are defective or do not conform to this contract, unsatisfactory performance as judged by the Contract Administrator, or failure to provide City, upon request, with adequate assurances of future performance shall all be causes allowing City to terminate this contract for cause. In the event of termination for cause, City shall not be liable to Contractor for any amount, and Contractor shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination. If it should be determined that City has improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

In the event Contractor is in violation of any Federal, State, County or City law, regulation or ordinance, the City may terminate this contract immediately upon giving notice to the Contractor

63. THIRD PARTY BENEFICIARY

The Contract Documents will not be construed to give any rights or benefits to anyone other than the City and the Contractor, and all duties and responsibilities undertaken in accordance with the Contract Documents will be for the sole and exclusive benefit of the City and the Contractor and not for the benefit of any other party.

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64. TRAFFIC CONTROL

- A. Complete street closures will not be permitted unless specified in the Special Provisions Section of this bid document.
- B. Adequate barricades and lighted warning signs shall be installed and maintained by the Contractor throughout the duration of the project. All traffic control shall be in accordance with the City of Phoenix Traffic Control Manual unless otherwise specified in the Special Provisions section of this bid document.
- C. The City Traffic Engineering Manager shall stipulate the traffic restrictions and/or minimum requirements throughout the construction period.
- D. The Contractor shall submit a construction schedule and traffic supplement for "Street Barricading and Channelization" to the City Traffic Engineering Manager for approval and/or modification before construction is initiated.

65. VERIFICATION OF COVERAGE

- A. The Contractor must furnish the City Certificates of Insurance (ACORD form or equivalent approved by the City) and with original endorsements effecting coverage as required by this Contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- B. All certificates and endorsements are to be received and approved by the City before Work commences except for Builders' Risk Insurance, which must be received and approved as provided above. Each insurance policy required by this Contract must be in effect at or before the earlier of commencement of Work under the Contract Documents or the signing of this Contract except for Builders' Risk Insurance which must be in effect before commencement of Work 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.
- C. All certificates of insurance required by this Contract must be sent directly to the City of Scottsdale, Capital Project Management. **The solicitation number and Project description must be included on the Certificates of Insurance.** The City reserves the right to require complete certified copies of all insurance policies required by this Contract, at any time.

CONSTRUCTION SPECIAL TERMS AND CONDITIONS	
	AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT IFB# IFB-032023-071



66. WORKMANSHIP

Where not more specifically described, workmanship shall conform to all of the methods and operations of best standards and accepted practices of the trade or trades involved and shall include all items of fabrication, construction or installation regularly furnished or required for completion.

All work shall be executed by tradesmen skilled in their respective lines of work.

When completed, all work shall have been durably and substantially built and shall present a neat, workmanlike appearance.

67. CITY PROJECT CONTINGENCY

An amount identified as "City Contingency" or "Owner Contingency" or "Force Account" is an allowance established solely by the City to be used at the sole discretion of the City to cover any increases in Project costs that result from City directed changes or unforeseen site conditions. The amount identified as such shall be added to the bid total, the sum of which will be the full contract price for construction. Contractor's fees on changes using any portion of the "City Contingency" or "Owner Contingency" or "Force Account" will be determined in accordance with the provisions for contract changes set forth in the terms and conditions.

SUBMITTAL PREPARATION REQUIREMENTS	
	AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT IFB# IFB-032023-071

Bidder shall submit all required documents and information electronically through the City of Scottsdale procurement portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://bonfirehub.com/cityofscottsdale).

Bidder shall download the solicitation documents from the City of Scottsdale procurement portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://bonfirehub.com/cityofscottsdale).

Please review the submittal requirements for the information to be submitted electronically through the City of Scottsdale procurement portal at: [City of Scottsdale, AZ \(bonfirehub.com\)](https://bonfirehub.com/cityofscottsdale). Note that Section 5, *Submittal Preparation Requirements*, lists the required forms to be completed and submitted as a part of the official proposal. Review the list and instructions below to complete the forms and other required information.

Please note:

- Forms identified as a *COS Form* indicates there is a corresponding form that shall be completed and uploaded
- If *COS Form* is not identified, the Offeror shall upload information, in an allowable format, as identified in the Requested Information section of the City of Scottsdale procurement portal
- All electronically submitted information shall be completed in the City of Scottsdale procurement portal, including Pricing Sheet if applicable

Bidders are **not** required to include a copy of the solicitation and/or any addenda issued by the City of Scottsdale, with their proposal.

To constitute a valid, responsive proposal by the Bidder to this solicitation, a **MINIMUM** the following items and required information **must** be included as part of Bidder's Proposal; failure to do so may result in Bidder's disqualification from further consideration.

SUBMITTAL CHECKLIST	
	AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT IFB# IFB-032023-071

NOTICE: Please review the submittal requirements below for the list of information to be included with your submittal.

The following documents are required with your bid in order to be considered responsive.

Check each box for each completed item included within your submittal.

- ☐ **Bid Form(s) (COS Form)** – Complete solicitation Bid Form(s), sign in ink, and upload
- ☐ **Bidder Form Signature Page (COS Form)** – Complete this form, sign in ink and upload
- ☐ **Schedule of Bid Items (COS Form)** – Complete Schedule of Bid Items Form(s) and upload
- ☐ **Subcontractor's List (COS Form)** – Complete Subcontractor's List Form(s) and upload
- ☐ **Bid Bond (COS Form)** - Complete Bid Bond Form and upload a copy together with sufficient sureties documentation, or alternatively upload a copy of the Cashier's Check as required in the Bid Bond paragraph in Instructions to Bidders section of this Solicitation. Instructions regarding delivery of original Bid Bond/ Surety or Cashier's Check will be communicated following Bid Opening.
- ☐ **Non-Collusion Bidding Certification – 2 Pages (Federal Form)** - Complete Non-Collusion Bidding Certification Form and upload
- ☐ **Affidavit for Disadvantaged Business Enterprise Assurances Form** - Complete this form, sign in ink, and upload
- ☐ **Bidder's Certifications Regarding Performance of Previous Contracts – Subject to EEO Clause (Federal Form)** - Complete this form, sign in ink, and upload
- ☐ **Certification of Non-Segregated Facilities (Federal Form)** - Complete this form, sign in ink, and upload
- ☐ **Disadvantaged Business Enterprise Utilization Statement (Federal Form)** - Complete this form, sign in ink, and upload
- ☐ **Certification on Non-Lobbying Activities (Federal Form)** - Complete the Certification on Non-Lobbying Activities Form(s), sign in ink, and upload
- ☐ **Certification: Intentions Concerning Subcontracting (Federal Form)** - Complete the Intentions Concerning Subcontracting Form(s) and upload
- ☐ **Certification of Buy America Compliance for Manufactured Products (Federal Form)** - Complete this form, sign in ink, and upload
- ☐ **Trade Restriction Certification (Federal Form)** - Complete this form, sign in ink, and upload
- ☐ **Buy America Certification (Federal Form)** – Complete this form, sign in ink, and upload
- ☐ **Pricing Sheet** – Electronically complete Pricing Sheet in the **Requested Information** section of the City of Scottsdale procurement portal

NOTE:

All City of Scottsdale (COS) forms provided, must be submitted without any alterations; failure to do so may result in your submittal being rejected.

Please **do not** return a copy of the solicitation and or related addenda(s) with your proposal/submittal.



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

In compliance with the Advertisement for Bids, by the City of Scottsdale Purchasing Division, the undersigned Bidder:

Having examined the Contract documents, work site, and being familiar with the conditions to be met, hereby submits the following bid for all labor, materials, and equipment, 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 hereinafter.

Understands that construction of this project shall be in accordance with all applicable M.A.G. Standard Specifications, Details, Uniform Codes, Ordinances, and Regulations as otherwise required by the Project Plans and Special Provisions.

Understands that the Bid shall be submitted with a bid guarantee of cashier's check or surety bond for an amount not less than (10%) ten percent of the amount bid.

Understands that a notarized Non-Collusion Bidding Certification shall be submitted with the Bid for it to be considered complete.

The Bidder also certifies it is in compliance with the Immigration Compliance and Federal and Arizona State Immigration Laws requirements of the solicitation.

Agrees that upon receipt of Notice of Award, from the City of Scottsdale, to execute the Contract documents.

Work shall be completed within the contract time as outlined below. The time allowed for completion of the work includes lead time for obtaining the necessary material and/or equipment.

- The Contract time for construction shall be as follows to complete the work as indicated in the Notice to Proceed (NTP);
 - BASE BID Contract time shall be eight (8) working days
 - BID ALTERNATE 1 Contract time shall be nine (9) working days
 - BID ALTERNATE 2 shall be eight (8) working days

All phases of work for this project will take place at night, between the hours of **9:00 PM and 6:00 AM**. Bid submittals shall be priced accordingly.

The Bidder hereby acknowledges that its bid pricing is based on all of the addenda that were issued by the City prior to opening of this bid.

The undersigned agrees to construct this project at the price shown on the **Schedule of Bid Items**.

The City will award the contract to the lowest responsive and responsible Bidder considering the sum of the "base bid" and those "alternate bid items" which are within the budget. The City will select the alternates in the order specified in the bid tabs/phases. The City reserves the right not to select any "alternate bid" items.



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

BASE BID (Phase 1): The undersigned agrees to construct this project at the price of,

_____ Dollars

(\$_____). This amount constitutes the Base Bid. Such base bid includes State, County and City privilege (sales) taxes.

BID ALTERNATE #1 (Phase 2): The undersigned agrees to construct alternate #1 at the price of,

_____ Dollars

(\$_____). This amount constitutes price for alternate #1. Such bid includes State, County and City privilege (sales) taxes.

BID ALTERNATE #2 (Phase 3): The undersigned agrees to construct alternate #2 at the price of,

_____ Dollars

(\$_____). This amount constitutes price for alternate #2. Such bid includes State, County and City privilege (sales) taxes.

BASE BID (Phase 1) + BID ALTERNATE #1 (PHASE 2): The undersigned agrees to construct this

project at the price of, _____ Dollars

(\$_____). This amount constitutes the Base Bid. Such base bid includes State, County and City privilege (sales) taxes.

BASE BID (Phase 1) + BID ALTERNATE #1 (PHASE 2) + BID ALTERNATE #2 (PHASE 3): The

undersigned agrees to construct this project at the price of,

_____ Dollars

(\$_____). This amount constitutes the Base Bid. Such base bid includes State, County and City privilege (sales) taxes.

Amounts shall be shown in both words and figures. In the event unit price extension errors are discovered on the Schedule of Bid Items submitted, the errors may be corrected by the City and the corrected total bid cost shall govern.

NAME OF FIRM: _____

BID FORM SIGNATURE PAGE**AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT****IFB# IFB-032023-071**

The City Council reserves the right, as the interest of the City requires, to reject any or all bids, to waive any informality in bids received, to award a contract by accepting or rejecting any alternate bid(s) (additive or subtractive) and reserves the right to reject the bid(s) of any Bidder who has previously failed to perform competently in any contract with the City.

Contractor's License Number and Classification: _____

THIS BID IS SUBMITTED BY _____, a corporation organized under the laws of the State of _____, a partnership consisting of _____ or individual trading as _____, of the City of _____. By submitting this bid (I), (WE) hereby agree to enter into the Contract included in the bid documents and (I), (WE) further agree that this bid incorporates by reference to the same extent as if set forth herein in full all of the terms and conditions contained in said bid documents identified as BID NO. IFB-032023-071, including all addenda issued by the City prior to bid opening. Plans, Standard Specifications and Details, Project Manuals, Special Provisions, Performance Bond, Payment Bond and Certificate of Insurance.

Respectfully Submitted:

COMPANY NAME: _____

AUTHORIZED REPRESENTATIVE: _____
(printed name) (signature)

ADDRESS: _____

CITY/STATE/ZIP CODE: _____

TELEPHONE NUMBER: _____ DATE: _____

E-MAIL ADDRESS: _____

WITNESS:
IF BIDDER IS AN INDIVIDUAL

BY: _____
NAME AND TITLE (SEAL)

SCHEDULE OF BID ITEMS – Page 1 of 3



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

LINE ITEM	SPEC #	ITEM DESCRIPTION	UOM	QUANTITY	UNIT COST	TOTAL AMOUNT
BASE BID – Phase 1						
1	MAG 109	MOBILIZATION	LS	1	\$	\$
2	SP-100-3.1	AIRFIELD SAFETY AND TRAFFIC CONTROL	LS	1	\$	\$
3	SP-100-3.2	CONSTRUCTION STAKING AND SURVEY LAYOUT	LS	1	\$	\$
4	SP-100-3.3	PREPARE AND MONITOR STORMWATER POLLUTION PREVENTION PLAN (SWPPP)	LS	1	\$	\$
5	SP-100-3.4	CONTRACTOR MATERIAL TESTING	LS	1	\$	\$
6	SP-100-3.5	UNSUITABLE SUBGRADE REPAIR	SY	775	\$	\$
7	SP-100-3.6	PAVEMENT REMOVAL, FULL DEPTH	SY	275	\$	\$
8	SP-102-5.3	CRUSHED AGGREGATE SLOPE PROTECTION ROCK, PUSH BACK AND RESTORE	SY	1,990	\$	\$
9	SP-103-4.1	PAVEMENT PULVERIZATION	SY	2,210	\$	\$
10	MAG 321	ASPHALT CONCRETE, 1/2-INCH MIX	TON	360	\$	\$
11	MAG 321	TACK COAT, TYPE SS-1H	TON	2	\$	\$
12	P-620-5.1	PAVEMENT MARKING, WHITE	SF	400	\$	\$
TOTAL BASE BID – Phase 1						\$
Written Total <u>BASE BID – Phase 1</u> Amount:						
				Dollars And		
				Cents		

COMPANY NAME: _____

SCHEDULE OF BID ITEMS – Page 2 of 3



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

LINE ITEM	SPEC #	ITEM DESCRIPTION	UOM	QUANTITY	UNIT COST	TOTAL AMOUNT
BID ALTERNATE 1 – Phase 2						
1	MAG 109	MOBILIZATION	LS	1	\$	\$
2	SP-100-3.1	AIRFIELD SAFETY AND TRAFFIC CONTROL	LS	1	\$	\$
3	SP-100-3.2	CONSTRUCTION STAKING AND SURVEY LAYOUT	LS	1	\$	\$
4	SP-100-3.3	PREPARE AND MONITOR STORMWATER POLLUTION PREVENTION PLAN (SWPPP)	LS	1	\$	\$
5	SP-100-3.4	CONTRACTOR MATERIAL TESTING	LS	1	\$	\$
6	SP-100-3.5	UNSUITABLE SUBGRADE REPAIR	SY	775	\$	\$
7	SP-102-5.1	CRUSHED AGGREGATE SLOPE PROTECTION ROCK, HAUL OFF	SY	275	\$	\$
8	SP-102-5.3	CRUSHED AGGREGATE SLOPE PROTECTION ROCK, PUSH BACK AND RESTORE	SY	1,990	\$	\$
9	SP-103-4.1	PAVEMENT PULVERIZATION	SY	2,210	\$	\$
10	MAG 205	ROADWAY EXCAVATION	TON	360	\$	\$
11	MAG 310	AGGREGATE BASE COURSE	TON	2	\$	\$
12	MAG 321	ASPHALT CONCRETE, 1/2-INCH MIX	SF	400	\$	\$
13	MAG 321	TACK COAT, TYPE SS-1H	LS	1	\$	\$
14	P-620-5.1	PAVEMENT MARKING, WHITE	LS	1	\$	\$
TOTAL BID ALTERNATE 1 – Phase 2						\$
Written Total <u>BID ALTERNATE 1 – Phase 2</u> Amount:						
					Dollars And	Cents

COMPANY NAME: _____

SCHEDULE OF BID ITEMS – Page 3 of 3



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

LINE ITEM	SPEC #	ITEM DESCRIPTION	UOM	QUANTITY	UNIT COST	TOTAL AMOUNT
BID ALTERNATE 2 – Phase 3						
1	MAG 109	MOBILIZATION	LS	1	\$	\$
2	SP-100-3.1	AIRFIELD SAFETY AND TRAFFIC CONTROL	LS	1	\$	\$
3	SP-100-3.2	CONSTRUCTION STAKING AND SURVEY LAYOUT	LS	1	\$	\$
4	SP-100-3.3	PREPARE AND MONITOR STORMWATER POLLUTION PREVENTION PLAN (SWPPP)	LS	1	\$	\$
5	SP-100-3.4	CONTRACTOR MATERIAL TESTING	LS	1	\$	\$
6	SP-100-3.5	UNSUITABLE SUBGRADE REPAIR	SY	775	\$	\$
7	SP-100-3.6	PAVEMENT REMOVAL, FULL DEPTH	SY	275	\$	\$
8	SP-102-5.1	CRUSHED AGGREGATE SLOPE PROTECTION ROCK, HAUL OFF	SY	1,990	\$	\$
9	SP-102-5.2	CRUSHED AGGREGATE SLOPE PROTECTION ROCK PLACEMENT, SALVAGED	SY	2,210	\$	\$
10	SP-102-5.3	CRUSHED AGGREGATE SLOPE PROTECTION ROCK, PUSH BACK AND RESTORE	TON	360	\$	\$
11	SP-103-4.1	PAVEMENT PULVERIZATION	TON	2	\$	\$
12	MAG 321	ASPHALT CONCRETE, 1/2-INCH MIX	SF	400	\$	\$
13	MAG 321	TACK COAT, TYPE SS-1H	LS	1	\$	\$
14	P-620-5.1	PAVEMENT MARKING, WHITE	LS	1	\$	\$
TOTAL BID ALTERNATE 2 – Phase 3						\$
Written Total <u>BID ALTERNATE 2 – Phase 3</u> Amount:						
						Dollars And Cents

COMPANY NAME: _____

SUBCONTRACTOR'S LIST**AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT****IFB# IFB-032023-071**

If any Bidder intends to subcontract any portion of this contract, the Bidder must submit the name, address, license number (if applicable) of each subcontractor including the extent of such subcontracting and include with bid submittal documents. Bidders may make multiple copies of this document as needed.

Company Name: _____ **License:** _____**Address/City/State:** _____**Contact Name:** _____ **Contact Telephone:** _____**Contact Email:** _____**Extent of Work:** _____**Company Name:** _____ **License:** _____**Address/City/State:** _____**Contact Name:** _____ **Contact Telephone:** _____**Contact Email:** _____**Extent of Work:** _____**Company Name:** _____ **License:** _____**Address/City/State:** _____**Contact Name:** _____ **Contact Telephone:** _____**Contact Email:** _____**Extent of Work:** _____**Company Name:** _____ **License:** _____**Address/City/State:** _____**Contact Name:** _____ **Contact Telephone:** _____**Contact Email:** _____**Extent of Work:** _____**YOUR COMPANY NAME:** _____

BID BOND	
	AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT IFB# IFB-032023-071

BID NUMBER: IFB-032023-071

PROJECT NUMBER: #AI03A

KNOW ALL MEN BY THESE PRESENTS: That we _____, as Principal, and _____, as Surety, are held and firmly bound unto the City of Scottsdale in the penal sum of Ten Percent (10%) of Bid Amount, Dollars (\$_____) lawful money of the United States of America, to be paid to the order of the City of Scottsdale, for which payment, well and truly to be made, we bind ourselves, our successors and assigns, signed with our seals and dated _____, 201____. The conditions of the above obligation are such that whereas the City Council of the City of Scottsdale, did order the following works to be done, to wit: Bid No. IFB-032023-071.

WHEREAS, _____, the Principal herein in answer to the Notice Inviting Bids issued by the City of Scottsdale, put in its bid for the making of said improvements.

NOW THEREFORE, if the Obligee accepts the proposal of the Principal and the Principal enters into a contract with the Obligee in accordance with the terms of the bid and gives the Bonds and Certificates of Insurance as specified in the Standard Specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the Principal to enter into the contract and give the Bonds and Certificates of Insurance, if the Principal pays to the Obligee 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 is void. Otherwise it remains in full force and effect provided, however, that this Bond is executed pursuant to the provisions of Section 34-201, Arizona Revised Statutes, and all liabilities on this Bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

ATTEST:

ATTORNEY IN FACT

PRINCIPAL (SEAL)

BY: _____

SURETY (SEAL)

AGENCY OF RECORD

AGENCY ADDRESS



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

COS BID NO. IFB-032023-071 NAME OF PRIME FIRM: _____

PROJECT NUMBER #AI03A

PROJECT NAME AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

(STATE OF)
 SS
 (COUNTY OF)

I, _____ of the City of _____ in the County
 of _____ and the State of _____ of full age, being duly
 sworn according to the law of my oath depose and say that:

I am a _____ a, _____
 (Name) (Title, Position, etc.)

of the firm of _____, the Bidder making the Bid for City of Scottsdale, (Insert Project Name), City Project No. (Project Number) and that I executed the said Bid with full authority so to do; that said Bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named Project; and that all statements contained in said Bid and in this affidavit are true and correct, and made with full knowledge that the City of Scottsdale relies upon the truth of the statements contained in said Bid and in the statements contained in this affidavit in awarding the Contract for the said Project.

The bidder certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal 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 any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract grant, loan, or cooperative agreement.

(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Copies of Form-LLL, "Disclosure Form to Report Lobbying", are available at ADOT Contracts and Specifications Services, 1651 W. Jackson, Room 121F, Phoenix, AZ 85007.



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The bidder also agrees, by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all subcontracts and lower tier subcontracts which exceed \$100,000 and that all such subcontractors and lower tier subcontractors shall certify and disclose accordingly.

The City of Scottsdale will keep the prime contractors' certifications on file as part of their original bid proposals. Each prime contractor shall keep individual certifications from all subcontractors and lower tier subcontractors on file.

Certifications shall be retained for three years following completion and acceptance of any given project.

Disclosure forms for the prime contractor shall be submitted to the Engineer at the pre-construction conference. Disclosure forms for subcontractors and lower tier subcontractors shall be submitted to the Engineer by the prime contractor along with the submittal of each subcontract or lower tier subcontract when said subcontracts exceed \$100,000.00. During the performance of the contract the prime contractor and any affected subcontractors shall file revised disclosure forms at the end of each calendar year quarter in which events occur that materially affect the accuracy of any previously filed disclosure form. Disclosure forms will be submitted by the Engineer to the Federal Highway Administration for further processing.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such Contract I upon an agreement of understanding, for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by:

(Signature of Bidder)

(Printed or Typed Name of Bidder)

Sworn to before me this _____ day of _____ 20____ in the
County of _____, State of _____

AFFIDAVIT FOR DISADVANTAGED BUSINESS ENTERPRISE ASSURANCES



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

This form is required to be submitted with your bid.

The undersigned, fully cognizant of the requirements and of the goal established, hereby certified that in the preparation of this bid for federal aid project.

Project Number AI03A

AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

Project Name _____

Location _____

COS Bid No. IFB-032023-071

(CHECK ONE)

_____ The established goal for DBE participation will be met and agreements have been made with certified DBE's, or

_____ The bidder has been unable to meet the goal prior to the submission of the bid and has made good faith efforts to do so.

THE AFFIDAVIT MAY NOT BE REVISED OR CORRECTED AFTER SUBMISSION OF THE BID.

Print Name of Firm

Print Name of Authorized Officer of Firm

Signature of Authorized Officer of Firm

Title

Sworn to before me this _____ day of _____ 20 _____ in the County of

_____, State of _____

(Notary Public)

In accordance with the Terms and Conditions the notified apparent low bidder shall specify its DBE participation on the "DBE Intended Participation Affidavit", or provide documentation of its good faith efforts, by 4:00 p.m. on the fifth working day following the bid opening.

**BIDDER'S CERTIFICATIONS OF PERFORMANCE OF PREVIOUS CONTRACTS SUBJECT TO EEO
CLAUSE**



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

The Bidder (Proposer) shall complete the following statement by checking the appropriate boxes.

The Bidder (Proposer) has ____ has not ____ participated in previous contract subject to the Equal Employment Opportunity Clause prescribed by Executive Order 11246.

The Bidder (Proposer) has ____ has not ____ submitted all compliance reports in connection with any such contract due under the applicable filing requirements; and that representations indicating submission of required compliance reports signed by the proposed subcontractors will be obtained prior to award of subcontracts.

If the Bidder (Proposer) has participated in previous contract subject to the Equal Opportunity Clause and has not submitted compliance reports due under applicable filing requirements, the Bidder (Proposer) shall submit a compliance report on Standard Form 100, "Employee Information Report EEO-1" prior to the award of contract.

NOTE: Failure to complete the blanks may be grounds for rejecting the bid.

Contractor / Company Name

Printed Name and Title of Authorized Representative

Signature of Authorized Representative

Date

(Name of Bidder)

Business Address: _____

CERTIFICATION OF NON-SEGREGATED FACILITIES**AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT****IFB# IFB-032023-071**

The federally-assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that 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 further that he will not maintain or provide, for his employees, any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his 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 he has obtained identical certification from proposed subcontractors for specific time periods) 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 he will retain such certifications in his files.

Certification - The information above is true and complete to the best of my knowledge and belief.

Contractor / Company Name

Printed Name and Title of Authorized Representative

Signature of Authorized Representative

(Name of Bidder)

Business Address: _____

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION STATEMENT**49 CFR Part 26****AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT****IFB# IFB-032023-071****Bidder/Offer**

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE Firm:

DBE Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

DBE Contact Person: Name: _____ Phone: (____) _____**DBE Certification Agency:** _____ Expiration _____ Date: _____

Each DBE Firm shall submit evidence (such as a photocopy of their certification status).

Classification:	Prime Contractor ☐	Subcontractor ☐	Joint Venture ☐
	Manufacturer ☐	Supplier ☐	

Work items to be performed by DBE	Description	Quantity	Total

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above.
The estimated participation is as follows:

DBE contract amount: \$ _____ Percent of total contract: _____%

Affirmation

The above named DBE Firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

CERTIFICATION ON NON LOBBYING ACTIVITIES



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

CERTIFICATION FOR CONTRACTS, GRANTS, AND LOANS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an 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 any Federal contract, grant, loan, or cooperative agreement.
2. 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, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor / Company Name

Printed Name and Title of Authorized Representative

Signature of Authorized Representative

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application _____ b. initial award c. post-award	3. Report Type: a. initial filing _____ b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known: Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

CERTIFICATION: INTENTIONS CONCERNING SUBCONTRACTING – Page 1 of 2



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

At the time of submission of Bids on the project titled above, my intention concerning subcontracting a portion of the work is as indicated below.

In indicating that it is my intention to subcontract a portion of the work, this will certify that affirmative actions were taken in the preparation of the Bid to solicit the interest, capability and prices of minority business enterprises (MBEs) and that documentation, such as copies of letters, requests for quotations, quotations, etc., substantiating the actions taken and the responses to such actions, is on file and available for review.

It **IS NOT** my intention to
Subcontract a portion of the
Work

It **IS** my intention to
Subcontract a portion of
the Work.

By: _____

By: _____

Title

Title

Name of Firm

Name of Firm

DATE: _____

DATE: _____

In compliance with the Standard Specifications as modified by these Contract Documents, the Contractor hereby submits for approval the following names of Subcontractors and/or Major Material Suppliers.

DESCRIPTION OF WORK OR PRODUCT	SUBCONTRACTOR OR MANUFACTURER	CONTRACTOR'S LICENSE NO.
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____

CERTIFICATION: INTENTIONS CONCERNING SUBCONTRACTING – Page 2 of 2**AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT****IFB# IFB-032023-071**

The Bidder/Offeror certifies by submission of this bid/proposal or acceptance of this contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this bid/proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Bidder/Offeror/Contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

Contractor / Company Name

Printed Name and Title of Authorized Representative

Signature of Authorized Representative

Date

(Name of Bidder)

Business Address: _____



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- Only installing steel and manufactured products produced in the United States, or;
 - Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
 - Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- To faithfully comply with providing US domestic product
- To furnish US domestic product for any waiver request that the FAA rejects
- To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
- That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
- To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

Required Documentation

Type 3 Waiver - The cost of the item components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

TRADE RESTRICTION CERTIFICATION – Page 1 of 2



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

The Contractor or Subcontractor, by submission of an offer and/or execution of Contract, certifies that it:

- a. is not owned or controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- (3) who incorporates in the public works project any product of a foreign country on such USTR list;

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

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

TRADE RESTRICTION CERTIFICATION – Page 2 of 2



AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

IFB# IFB-032023-071

Contractor / Company Name

Printed Name and Title of Authorized Representative

Signature of Authorized Representative

Date

Business Address:

BUY AMERICA CERTIFICATION	
	AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT IFB# IFB-032023-071

COS BID NO. IFB-032023-071 **NAME OF PRIME FIRM:** _____

PROJECT NUMBER #A103A

PROJECT NAME AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in federal-funded projects are produced in the United States, unless a waiver has been granted by the Federal Highway Administration (FHWA) or the product is subject to a general waiver.

A bidder or offeror must submit to the City of Scottsdale the appropriate Buy America Certification (below) with all bids on federally-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Date _____

Signature _____

Company Name _____

Title _____

OR:

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Date _____

Signature _____

Company Name _____

Title _____

Company Name _____



INVITATION FOR BID IFB-032023-071

AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

SAMPLE CONTRACTUAL DOCUMENTS - REQUIRED FOR FINAL EXECUTION OF CONTRACT

*The following documents do **not** need to be included with your submittal.*



NOTICE OF AWARD

BID NUMBER: IFB-032023-071

PROJECT NUMBER: AI03A

PROJECT NAME: Airport Perimeter Rd Reconstruction Project

TO (Company Name Only)
(Address)
(City, State, Zip)

You are hereby notified that you were awarded the Contract by the Scottsdale City Council or the Purchasing Director, on (Date) in the amount of \$_____.

You are required by the Terms and Conditions of this bid to execute the Construction Contract and furnish the following checked items within ten (10) days from the date of this Notice:

- ☐ Contractor's Payment Bond ☐ Contractor's Performance Bond ☐ Insurance Certificate(s)
☐ I.R.S. Form W-9/Request for Taxpayer ID No. & Certification ☐ New Vendor Setup Form

If you fail to execute the Construction Contract, furnish the items identified above within ten (10) days from the date of this Notice, the City will consider this as a forfeiture of your Bid Bond. All required documents shall to be sent to the Bid & Contract Specialist listed below. The City will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the City of Scottsdale.

BY: _____
type staff name
type staff title

ACCEPTANCE OF NOTICE:

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

BY: _____
Signature of Authorized Representative Printed Name/Title

Subscribed and sworn to before me this _____ day of _____ 201__.

NOTARY PUBLIC

My Commission Expires



**CITY OF SCOTTSDALE
CONSTRUCTION CONTRACT**

BID NUMBER: IFB-032023-071

PROJECT NUMBER: AI03A

PROJECT NAME: Airport Perimeter Rd Reconstruction Project

THIS CONTRACT, entered into this _____ day of _____, 201____, between _____, herein after designated "Contractor" and the City of Scottsdale, County of Maricopa, and State of Arizona, a municipal corporation, organized and existing under and by virtue of the laws of the State of Arizona, the "City".

WITNESSETH:

The Contractor, in consideration of the sum to be paid Contractor by the City, in the manner and at the time provided, and of the other covenants and agreements contained in this Contract and under the penalties expressed in the bonds provided, agrees, for itself, its heirs, executors, administrators, successors, and assigns as follows:

SECTION 1 - SCOPE OF WORK: The Contractor will furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work for Bid No. IFB-032023-071, Project No. (project number) and to completely and totally construct the project and install the material in the project for the City, in a good workmanlike and substantial manner to the satisfaction of the City and under the oversight of the City, or other properly authorized agents and strictly in accordance with the Plans and Specifications prepared for the City, and with any modifications of the Plans and Specifications and other documents that may be made by the City or other properly authorized agents, as provided in this Contract.

The Contractor agrees that this Contract, as awarded, is for Bid No. _____, Project No._____, SOLICITATION title _____, project address _____ in the amount of \$_____ and understands that payment for the total work will be made on the basis of the indicated amount(s), as bid in the Bid Form.

SECTION 2 - CONTRACT DOCUMENTS: The Contract Documents consist of the Invitation for Bid, Bid No. _____, Plans, Standard Specifications and Details, Project Manuals, General and Special Provisions, Addenda, if any, and Contractor's Bid, as accepted by the Mayor and Council. Performance Bond, Payment Bond, Certificates of Insurance, and Change Orders, if any, are by this reference made a part of this Contract.

PROJECT NAME: Airport Perimeter Rd Reconstruction Project

SECTION 3 - TIME OF COMPLETION: The Contractor further covenants and agrees at its own proper cost and expense, to do all work as required for the construction of the improvements and to completely construct the project and install the materials, as called for by the Contract Documents free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in the bid documents.

SECTION 4 - PAYMENTS: In consideration of the faithful performance of the work as stated in the Contract Documents, which have been made a part of this Contract by reference, and in accordance with the directions of the City, through its Contract Administrator or other properly authorized agent and to City's satisfaction, the City agrees to pay the Contractor the amount earned, computed from actual quantities of work performed and accepted or materials furnished at the unit bid and/or lump sum price on the Bid Form. Any progress payments made must be in accordance with the General Terms and Conditions as stated in the Contract Documents and final payment will be made within 60 days after final inspection and acceptance of the work.

SECTION 5 - CONTRACT ADMINISTRATOR IS: (type contract administrator) or designee.

IN WITNESS WHEREOF, 2 identical counterparts of this contract, each of which are for all purposes considered an original, have been duly executed by the parties on the date and year first above written.

CITY OF SCOTTSDALE

ATTEST:

By: _____
David D. Ortega, Mayor

BY: _____
Ben Lane, City Clerk

CONTRACTOR:

REVIEWED:

(printed awardee name / title)

George Woods
Risk Management Director

By: _____
(signature of authorized representative)

Robert Schoepe, CPPO
Purchasing Director

(type name)
Contract Administrator

APPROVED AS TO FORM:

Sherry R. Scott, City Attorney
By: Eric C. Anderson
Senior Assistant City Attorney

STATUTORY PERFORMANCE BOND
PURSUANT TO TITLE 34, CHAPTER 2, ARTICLE 2,
OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (hereinafter called the Principal) as Principal, and _____, a corporation organized and existing under the laws of the State of _____ with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Scottsdale, County of Maricopa, State of Arizona in the amount of _____ Dollars (\$_____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the City of Scottsdale, dated the _____ day of _____, 201__ for Bid No. _____ Project No. _____, Solicitation Title _____, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW THEREFORE, the condition of this obligation is such, that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of the contract during the original term of the contract and any extension of the contract, with or without notice to the surety, and during the life of any guaranty required under the contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

PROVIDED HOWEVER, that this Bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this Bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a Judge of the Court.

WITNESS our hands the _____ day of _____, 201__

PRINCIPAL

BY:

SURETY (SEAL)

AGENCY OF RECORD

AGENCY ADDRESS

STATUTORY PAYMENT BOND
PURSUANT TO TITLE 34, CHAPTER 2, ARTICLE 2,
OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (hereinafter called the Principal), as Principal, and _____ a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Scottsdale, County of Maricopa, State of Arizona, in the amount of _____ Dollars (\$_____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the City of Scottsdale dated the _____ day of _____, 201__ for Bid No. _____, Project No. _____, SOLICITATION TITLE _____, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of this obligation is such, that if the Principal promptly pays all monies due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in the contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if they were copied at length in this agreement. The prevailing party in a suit on this bond shall be recover as a part of the judgment reasonable attorney fees that may be fixed by a Judge of the Court.

WITNESS our hands the _____ day of _____, 201__

PRINCIPAL

BY:

SURETY (SEAL)

AGENCY OF RECORD

AGENCY ADDRESS



NOTICE TO PROCEED

PROJECT NAME: AIRPORT PERIMETER ROAD RECONSTRUCTION PROJECT

BID NUMBER: IFB-032023-071

COS PROJECT NUMBER: AI03A

ADOT GRANT: #E2S4Y01C

Date

TO:

In accordance with the Contract dated _____, 201__, you are hereby notified to commence work on _____, 201__ and you are to complete the WORK within (enter contract time) consecutive calendar days thereafter. The date of completion of all WORK is therefore _____, 201__. Official time extensions thereto shall be considered and authorized in strict conformance with General Conditions or M.A.G. Standard Specifications.

CITY OF SCOTTSDALE

ISSUED BY: _____
(staff name)
(staff title)

REVIEWED BY: _____
(contract administrator name)
Project Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged.

BY: _____
Signature of Authorized Representative Printed Name/Title

Subscribed and sworn to before me this _____ day of _____ 201__

NOTARY PUBLIC

My Commission Expires



SUBCONTRACTOR REQUEST (Please check the appropriate box)

- ☐ Request for subcontract acceptance
☐ Request for Lower Tier Subcontract Acceptance

It is the City's responsibility to ensure that prime contractors employ subcontractors in accordance with various Federal and State regulations. Please provide the information and appropriate signatures requested below **at the Pre-Construction Meeting**. Copies of subcontracts shall also be provided to the City. The subcontractor may not start work until this request is authorized by the City.

Project Name: _____ Date: _____
City Project No. _____ Fed. Project No. _____
Tracs. Number: _____
Prime Contractor: _____ Prime Phone: _____
Prime Contract Amount: _____ Prime AZ UTRACS No. _____

Permission is requested to sublet the following described work, being a portion of the above project to:

Subcontractor Information:

Subcontractor Company Name: _____
Mailing Address: _____
Main Phone No: _____ Fax Number: _____
Company Contact: _____ Email Address: _____
R.O.C. No.: _____ Federal ID No. _____
Sub AZ UTRACS No. _____

The Subcontractor is: ☐ A Corporation, incorporated in the State of _____
☐ A Proprietorship ☐ A Partnership ☐ An LLC ☐ Other: _____

Minority Status: ☐ None ☐ DBE ☐ MBE ☐ WBE

Lower Tier Subcontractor to: _____

Subcontractor Payroll Designee:

Name: _____ Phone Number: _____
Fax Number: _____ Email Address: _____

The designee is in a position to have full knowledge of: (a) the facts set forth in the Subcontractor's payroll documents; (b) the Statement of Compliance referred to in 29 C.F.R. 5.5(a)(3)(ii)(B), which the Appointee is to execute with each payroll report; and (c) the Copeland "Anti-Kickback" Act (18 U.S.C. § 874, as implemented and supplemented by 29 C.F.R. part 3).

Truck Owner-Operator Information:

I certify that I am a bona fide truck owner/operator

Signature _____ Date _____

Subcontractor Contract Value:

[illegible]

CERTIFICATION: The Prime Contractor and Subcontractor certify the following:

- A) The Subcontractor has received applicable Document Nos. 2-9 per Special Provisions.
- B) The Prime Contractor and Subcontractor will execute Document Nos. 1 and 2 prior to the start of Subcontractor's work. DBE subcontracts must be submitted at the Pre-Construction conference.
- C) Upon execution, Prime Contractor will provide the City Contract Administrator copies of Document Nos. 1 and 4.
 - 1. Subcontract Agreement containing the above Bid Items of Work.
 - 2. Standard Federal EEO, Executive Order 11246 Revised 04-15-81 (Federal Aid and Non Federal Aid projects).
 - 3. Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246), April 15, 1981 (Fed. Aid and NFA).
 - 4. Certification, Contracts or Subcontracts subject to EEO clause April 1969 (Federal Aid Projects only).
 - 5. FHWA1273 (Rev. 5-12), initialed on each page by the Subcontractor. (Federal Aid Projects only).
 - 6. EEO Compliance Reports, August 1, 2005 (Federal Aid Projects only).
 - 7. Certification of Non-segregated Facilities, September 29, 1975 (Federal Aid Projects only).
 - 8. EPRISE Specifications (9/19/16) with or without goal.
 - 9. City of Scottsdale Title VI Assurances including Appendices A and E.
 - 10. LPA DBE Subcontract Compliance Assurances
 - 11. Wage Determination Decision #: _____ Mod #: _____ (As per contract documents for referenced project.)
 - 12. Cargo Preference Act
 - 13. Contractor and Subcontractor Records Retention Language. The contractor shall insert the below 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.

"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 of the above material shall be made available to the City of Scottsdale, ADOT and or FHWA for auditing, inspection and copying and shall be produced, upon request"

- 11. Language ensuring that 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.

_____ Authorized Prime Contractor Signature/Date	_____ Authorized Subcontractor Signature/Date	_____ Authorized Lower Tier Signature/Date
_____ Printed Name	_____ Printed Name	_____ Printed Name
_____ Title	_____ Title	_____ Title

FOR CITY USE ONLY

Verification of Sam.gov ☐

Verification of all contract provisions

- ☐ Subcontract Agreement containing the above Bid Items of Work.
- ☐ Buy America Provisions
- ☐ Standard Federal EEO, Executive Order 11246 Revised 04-15-81
- ☐ Affirmative Action to Ensure Equal Employment Opportunity
- ☐ Certification, Contracts or Subcontracts subject to EEO clause April 1969
- ☐ FHWA1273 (Rev. 5-12), initialed on each page by the Subcontractor.
- ☐ EEO Compliance Reports, August 1, 2005
- ☐ Certification of Non-segregated Facilities, September 29, 1975
- ☐ EPRISE Specifications (9/19/16) with or without goal.
- ☐ City of Scottsdale - Title VI Assurances and Appendices A and E.
- ☐ LPA DBE Subcontract Compliance Assurances
- ☐ Wage Determination
- ☐ Cargo Preference Act
- ☐ Contractor and Subcontractor Records Retention Language.
- ☐ Language regarding applicable laws

Verification of the DBE Calculations. Does the DBE commitment on this match what was provided in the bid documents? ☐

Total Subcontracted To Date: \$ _____

Percentage Subcontracted To Date: _____%

Subcontract in Project File? YES _____ NO _____

City of Scottsdale Contract Administrator

Date



AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS

PROJECT NAME: AIRPORT PERIMETER RD RECONSTRUCTION PROJECT

BID NUMBER: IFB-032023-071

COS PROJECT NUMBER: AI03A

ADOT GRANT #: E2S4Y01C

To the City of Scottsdale, Arizona

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project, whether by subcontractor or claimant in person, have been duly discharged.

The undersigned, for the total consideration of \$_____, including the final pay estimate of \$_____, as full and complete payment under the terms of the contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described project. The undersigned further agrees to defend, indemnify and hold harmless the City of Scottsdale against any and all liens, claims of liens, suits, action, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor performances and materials furnished for the performance of said project construction items and/or services.

Signed and dated this _____ day of _____ 201__.

CONTRACTOR

BY:

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this ____ day of _____, 201__.

NOTARY PUBLIC

My Commission Expires



**CONTRACTOR'S NOTICE OF
FINAL PAY ESTIMATE**

PROJECT NAME: AIRPORT PERIMETER RD RECONSTRUCTION PROJECT

BID NUMBER: IFB-032023-071

COS PROJECT NUMBER: AI03A

ADOT GRANT: E2S4Y01C

To the City of Scottsdale

This notice confirms acceptance by Contractor of final contract payment in the amount of \$_____ which represents the balance due for subject project. This amount includes payment for all retentions held and adjusted final quantities.

TOTAL CONTRACT AMOUNT, including final pay estimate: \$_____.

Signed and dated this _____ day of _____ 201__.

BY: _____

Title: _____

For: _____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this ____ day of _____, 201__.

NOTARY PUBLIC

My Commission Expires



**CONTRACTOR'S NOTICE OF
FINAL ACCEPTANCE**

PROJECT NAME: AIRPORT PERIMETER RD RECONSTRUCTION PROJECT

BID NUMBER: IFB-032023-071

COS PROJECT NUMBER: AI03A

ADOT GRANT:# E2S4Y01C

CONTRACTOR NAME:

FINAL CONTRACT AMOUNT:

Construction on the above project was completed on _____ and on _____ a final inspection was made of the subject improvements by this office. The work substantially conforms to the approved plans and specifications. We, therefore, accept those portions within the public right-of-way into our system for maintenance.

This final acceptance is given in accordance with contract number 202 -XXX-COS/IFB-032023-071, Construction Special Terms and Conditions, Section 31. Final Acceptance.

Approved By:

Contract Administrator

Construction Coordinator

cc: City Clerk
Accounting Director
Risk Management Director
Tax Audit Manager
Purchasing Director
Other:



CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NAME:

BID NUMBER IFB-032023-071

COS PROJECT NUMBER AI03A

ADOT TRACS Project No. N/A

Federal Project No. N/A

Owner:

City of Scottsdale Airport
Chris Read, Contract Administrator
15000 North Airport Drive, Suite 285
Scottsdale, Arizona 85260

Contractor:

XXX Company
Contact
Address
Address line 2

Dear [REDACTED]:

The City of Scottsdale hereby recognizes substantial completion of the above referenced project as of **[completion date]**. The punch list dated [REDACTED], with the remaining items to be completed, is attached **[punch list date]** is attached. Per contract, Final Completion must be obtained no later than 30 calendar days after the date of Substantial Completion. Failure to timely obtain Final Completion will be a material breach of contract.

The warranties and guarantees required by the contract documents begin as of this substantial completion date. This recognition of substantial completion is issued with the understanding that the City is indemnified and held harmless against any and all claims, liens, suits, etc. arising from disputes concerning payment for the above project.

Approved By:

Name	Title	Date
Contract Administrator		

Name	Title	Date
Construction Contractor		

Name	Title	Date
Project Architect/Engineer		



RETAINAGE ESCROW AGREEMENT AND ASSIGNMENT FOR CONSTRUCTION CONTRACTS

This Escrow Agreement and Assignment is made and entered into on _____, 201____, by and among the City of Scottsdale (hereinafter referred to as "City"), _____ (hereinafter referred to as "Contractor") and Wells Fargo Bank Arizona, National Association (hereinafter referred to as "Bank" or "Escrow Agent").

Whereas, City and Bank, having entered into Banking Services Agreement No. 18RP016; and

Whereas, City and Contractor have entered into a contract for construction as follows:

referred to as "Contract"); and

Whereas, said Contract provides that City shall reserve as retainage an amount not to exceed ten percent (10%) of progress payments due on the Contract pursuant to the provisions of Arizona Revised Statutes, Section 34-221; and

Whereas, A.R.S. § 34-221(C) (5) provides that a contractor may assign to City certain certificates of deposit or securities (collectively "securities") in lieu of the ten percent retainage; and

Whereas, Contractor desires to avail itself to said assignment provisions; and

Whereas, City, Contractor, and Bank mutually desire to enter into this Escrow Agreement and Assignment (hereinafter referred to as "Agreement") in order to implement the statutory provisions;

Now, Therefore, in consideration of the foregoing and the mutual covenants and promises contained herein, the parties agree as follows:

Appointment and Acceptance of Escrow Agent. The City designates the Bank as its Escrow Agent and custodian to care for and service any securities or funds assigned by Contractor to City pursuant to A.R.S. § 34-221(C) (5). The Bank agrees to accept appointment as Escrow Agent.

Fees. Bank is entitled to compensation in accordance with "Schedule A" attached hereto and incorporated herein by reference and which shall be payable by Contractor.

Receipt of Escrow Funds. Whenever Contractor elects to substitute acceptable securities for the entire amount to be retained by City as a guarantee for complete performance of the Contract, Contractor shall provide written notification to City of such election. Upon such notification, Contractor agrees to transfer funds in that amount to the Bank, at which time the Bank agrees to immediately purchase one or more of the type of securities set forth in paragraph 4 of this Agreement in the name of City in accordance with investment directions received from Contractor. All such funds transferred by Contractor to the Bank upon election of Contractor shall, from the moment of such transfer, be subject to all terms and conditions contained in this Agreement.

Contractor shall have the right to direct the Bank to change the investment of funds from a particular security to another security as long as all securities comply with the requirements of paragraph 4 of this Agreement and so long as Contractor pays all handling and/or transfer fees related to investment changes. All such securities shall be purchased in the name of City, shall be held by Bank in accordance with this Agreement, and shall be deemed to be in the possession of City for its benefit in lieu of retainages held by City under the Contract.

In no event shall City accept a time certificate of deposit of a bank or shares of a savings and loan institution in lieu of the retainage unless accompanied by a signed and acknowledged waiver of the bank or savings and loan institution of any right or power to set off against either the City or Contractor in relationship to the certificates or shares assigned. Investments in Money Market Funds that invest only in securities set forth in paragraph 4 of this Agreement shall be considered an acceptable substitute for the actual securities. Such Money Market Funds may be Money Market Funds for which the Trustee or its Affiliates provide management advisory services.

Investment of Escrow Funds. For purposes of this Agreement only, the term “security” shall be of a character described in A.R.S. § 34-221(C) (5) and approved by the state treasurer, including:

Time certificates of deposit of banks licensed by the State of Arizona;

Securities of or guaranteed by the United States of America;

- (c) Securities of the State of Arizona or of counties, municipalities and school districts within Arizona;
- (d) Shares of savings and loan institutions authorized to transact business in Arizona.

Interest. All interest and income paid on any bonds or securities assigned and deposited pursuant to this Agreement shall be collected on a regular basis by the Bank and said amounts shall be the property of and be paid, when and as accrued and collected, to Contractor, less reasonable custodial care or service costs charged for such service.

Duty of the Escrow Agent. The duties of Bank include its obligations to:

Receive the Escrow Funds and invest the same pursuant to Section 4, pending written authorization from the City to deliver all interest and income of said securities to Contractor; Provide immediate notification to the City of each Contractor deposit of funds into the escrow account and each purchase of securities by Bank;

Duty of the Escrow Agent – Cont'd

Deliver to City all or any portion of said securities, upon written request of City, provided that, upon City's written instruction, Bank shall first reconvert said securities into money and deliver such money together with any other moneys held pursuant to this Agreement to the City by depositing same to the City's depository account with Bank;

Deliver to Contractor all sums remaining in the escrow account upon City's written notification to Bank that Contractor has satisfactorily completed work pursuant to the construction Contract.

Rights. The City and Contractor agree that this Agreement shall in no way infringe on or restrict the rights of City or Contractor under the construction Contract.

Assignment. Contractor hereby assigns to City any and all rights, title and interest, without reservation whatsoever, which Contractor has or might have in the securities which are now or may hereinafter be deposited with the Bank pursuant to this Agreement.

Reporting. The Bank shall report at least monthly to Contractor and City on the market value of the securities deposited with the Bank pursuant to this Agreement. If at any time the market value of the securities falls below the amount of retained funds substituted by bonds and securities, Contractor shall, in the name of the City, deposit with the Bank money or securities complying with paragraph 4 of this Agreement in an amount sufficient to re-establish a total deposit of securities equal in value to the initial amount substituted. The Bank shall not be responsible for monitoring the market value of the securities except on a month-end basis.

Indemnification. Contractor shall indemnify and hold harmless the Escrow Agent from and against, any and all loss, liability, cost, damage and expense, including, without limitation, reasonable counsel fees, which the Escrow Agent may suffer or incur by reason of any action, claim or proceeding brought against the Escrow Agent arising out of or relating in any way to this Agreement or any transaction to which this Agreement relates unless such action, claim or proceeding is the result of negligence, gross negligence, or the willful misconduct of the Escrow Agent. The Escrow Agent may conclusively rely upon and shall be protected in acting upon any statement, certificate, notice, request, consent, order or other document believed by it to be genuine and to have been signed or presented by a duly authorized party or parties. The Escrow Agent shall have no duty or liability to verify any such statement, certificate, notice, request, consent, order or other document.

Notices. All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of service if served personally on the party to whom notice is to be given, (b) on the day of transmission if sent by facsimile transmission to the facsimile number given below, and telephonic confirmation of receipt is obtained promptly after completion of transmission, (c) on the day after delivery to Federal Express or similar overnight courier or the Express Mail service maintained by the United States Postal Service, or (d) on the fifth day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed, return receipt requested, to the party as follows:

Notices – Cont'd

If to City:

If to Contractor:

If to Escrow Agent:

Wells Fargo Bank Arizona, N.A.
Attn: Jeff Kassels
100 West Washington, MAC: S4101-22E
Phoenix, AZ 85003
Phone # 602-378-2305
Fax #602-378-2333

Any party may change its address for purposes of this paragraph by giving the other parties written notice of the new address in the manner set forth above.

Successors and Assigns. Except as otherwise provided in this Agreement, no party hereto shall assign this Agreement or any rights or obligations hereunder, including use of funds or securities as collateral, without the prior written consent of the other parties hereto, and any such attempted assignment without such prior written consent shall be void and of no force and effect. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties hereto.

Governing Law: Jurisdiction. This Agreement shall be construed, performed, and enforced in accordance with, and governed by, the internal laws of the State of Arizona, without giving effect to the principles of conflict of laws thereof.

Severability. In the event that any part of this Agreement is declared by any court or other judicial or administrative body to be null, void, or unenforceable, all remaining provisions of this Agreement shall remain in full force and effect.

Amendments: Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties, or conditions hereof may be waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance. Any waiver by any party of any condition, or of the breach of any provision, term, covenant, representation, or warranty contained in this Agreement, in any one or more instances, shall neither be deemed nor construed as a further or continuing waiver of such condition or the breach of any other provision, term, covenant, representation, or warranty of this Agreement.

Entire Agreement. This Agreement contains the entire understanding among the parties hereto with respect to the escrow contemplated hereby and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to such escrow.

Section Headings. The section headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

Time of Essence. Time is of the essence of this Agreement.

Resignation. Escrow Agent may resign upon thirty (30) days advance written notice to the City and Contractor. If a successor Escrow Agent is not appointed within the thirty-day period following such notice, Escrow Agent may petition any court of competent jurisdiction to name a successor Escrow Agent.

Other Contract Provisions. All other provisions of the Banking Services Agreement No. 18RP016 between the City and Bank and all executed Amendments thereto, not otherwise modified by this Agreement, shall remain in full force and effect as stated therein.

SAMPLE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first set forth above.

City of Scottsdale
David D. Ortega, Mayor

By: _____
Contract Administrator

Reviewed By:

(type staff name)
Bid & Contract Specialist

Approved as To Form:

Sherry R. Scott, City Attorney

By: Eric C. Anderson, Asst. City Atty.

WELLS FARGO BANK ARIZONA, NATIONAL ASSOCIATION

By: _____
Its: _____

CONTRACTOR: _____

By: _____
Its: _____

Schedule A

Retention Escrow Fees:

Acceptance Fee	\$ 750.00
Annual Fee	\$1,000.00

SAMPLE

ATTACHMENTS LIST	
	AIRPORT PERIMETER RD RECONSTRUCTION PROJECT IFB# IFB-032023-071

ATTACHMENT A – PROJECT SPECIFICATIONS

- Part 1 - STANDARD SPECIFICATIONS
- Part 2 - FAA STARDARD SPECIFICATIONS
- Part 3 - SPECIAL PROVISIONS FOR AIRPORT CONSTRUCTION
- Part 4 - CONSTRUCTION SAFETY AND PHASING PLAN

ATTACHMENT B – CONSTRUCTION DOCUMENTS