

COOPERATIVE PURCHASE CONTRACT

Contract No. 2026-17

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 2025 by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona (“City”) and SWCA, Incorporated DBA SWCA Environmental Consultants, an Arizona corporation (“Contractor”).

RECITALS:

- A. Contractor is a consultant capable of providing On-Call Environmental Services;
- B. The Arizona Department of Administration conducted a competitive and open procurement process that resulted in Contract No. **CTR066941** (“Agency Contract”); and
- C. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the Parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to the City the materials and/or services, as specified in the Scope of Work attached as Exhibit A, and in accordance with the Agency Contract. A general description of materials and/or services being purchased is:

Greater Flagstaff Region Community Wildfire Protection Plan Update

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Scope of Work attached as Exhibit A and incorporated by reference.
3. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents attached as Exhibit B, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. Contractor is responsible for promptly notifying City in writing of any changes in price for materials and/or services to the Agency Contract.
4. Payment:
 - 4.1 Payment to Contractor for the materials and/or services shall not exceed **two hundred fifty-nine thousand three hundred ninety dollars and zero cents (\$259,390.00)** made in accordance with the price list and terms set forth in the Agency Contract.
 - 4.2 Any increase in the price must be supported by documentation and approved by mutual written consent of the parties through a formal change order process. The City Manager or his/her designee may approve an adjustment if the change order price increase is less than \$100,000; otherwise, City Council approval is required.
5. Grant Provisions: Contractor shall meet the Grant Provisions from Funding Agency: Arizona Department of Forestry and Fire Management Grant Agreement No.: 24-CWDG-804 FS-1500-0045 as set forth in Exhibit C.

6. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.
7. Term and Renewal: This Cooperative Purchase Contract shall commence upon execution by the Parties and shall continue for a period of two (2)-year from the date of execution of the Contract with an option for one (1)- year renewal period presuming that the underlying Agency Contract has not expired or been terminated.
8. Notice: Any formal notice required under the Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Neil Chapman
Wildland Fire Captain
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
Neil.Chapman@flagstaffaz.gov

To Contractor:

Annie Jay-Lutes
Project Manager
SWCA, Incorporated
1750 S Woodlands Village Blvd
Suite 200
Flagstaff, AZ 86001
alutes@swca.com

With a copy to:

Joshua Linam
Sr. Procurement Specialist
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
Joshua.Linam@flagstaffaz.gov

(Remainder of Page Intentionally Blank)

9. Authority: Each Party warrants that it has authority to enter into the Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into the Contract.

SWCA, INCORPORATED:

By: _____

Title: _____

CITY OF FLAGSTAFF

By: _____

Title: _____

ATTEST:

City Clerk

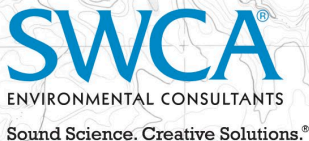
APPROVED AS TO FORM:

City Attorney's Office

Notice to Proceed issued: _____, 20__

Last Updated January 6, 2025

EXHIBIT A - SCOPE OF WORK



1750 South Woodlands Village Boulevard
Suite 200
Flagstaff, Arizona 86001
Tel 928.774.5500 Fax 928.779.2709
www.swca.com

July 3, 2025

Neil Chapman
City of Flagstaff Wildland Fire Management
211 West Aspen Avenue
Flagstaff, Arizona 86001
Submitted via email: Neil.Chapman@flagstaffaz.gov

Re: Greater Flagstaff Region Community Wildfire Protection Plan Update / SWCA Proposal No. P92935

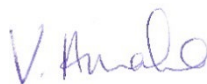
Dear Neil:

SWCA Environmental Consultants (SWCA) appreciates the opportunity to provide you with our scope of services and cost estimate to support the planned update to the Greater Flagstaff Region Community Wildfire Protection Plan (CWPP). Based on our experience, the CWPP update will involve the following tasks: 1) Project kick-off and Core Team identification; 2) Core Team workshops and public outreach; 3) Data gathering; 4) Community base map development; 5) Community risk assessment development; 6) Initial CWPP development; 7) Final CWPP completion; and 8) Story map and project tracking application development.

The cost to complete these tasks, as described in the attached statement of work (SOW), is a time-and-materials, not-to-exceed total of **\$259,390**. Because the work will be contracted through a cooperative purchase agreement under SWCA's existing Arizona Department of Administration environmental services on-call, this cost estimate is based on established rates and is subject to applicable special terms and conditions as stipulated under Contract No. CTR066941 (expiring July 31, 2028).

Thank you for providing us with the opportunity to work with you. If the scope of services and cost estimate are acceptable to you, please issue a purchase/task order acknowledging the attached SOW. Once under contract, we will be able to start work immediately. Please do not hesitate to reach out to us if you have any questions regarding this proposal.

Sincerely,


Vicky Amato – Technical Advisor
(970) 402-5940 | vamato@swca.com


Annie Jay Lutes – Project Manager
(928) 249-8465 | alutes@swca.com



STATEMENT OF WORK

TASK 1. CONVENE KICK-OFF CONFERENCE CALL & IDENTIFY CORE TEAM

Within 1 month of Notice to Proceed (NTP)

SWCA would convene an initial kick-off conference call with the Greater Flagstaff Region (GFR) representatives to discuss key topics of the project including identifying the CWPP goals and objectives, establishing communication protocols, determining initial project scheduling and deliverables, and identifying preliminary data needs that would facilitate the planning process. As part of the kick-off call, the identification of Core Team members would be initiated. SWCA understands that GFR has a well-established list of stakeholders and partners for wildfire management and mitigation and the GFR would identify pertinent representatives to join the Core Team. The Core Team would be responsible for reviewing risk assessment information, developing recommendations for fire mitigation and risk reduction, and providing expert knowledge regarding fire risk and hazard within the GFR planning area, particularly within the wildland urban interface (WUI).

Assumptions

- The kickoff meeting will be held via Teams or Zoom.

TASK 2. HOST CORE TEAM WORKSHOPS AND PUBLIC OUTREACH

At 3 months, 6 months, and 9 months from NTP

SWCA would assist the Core Team in facilitating up to three meetings lasting between 2 to 6 hours each. Core Team meetings will guide the planning process and build consensus among members.

During the first Core Team meeting (held virtually), SWCA would facilitate an overview of the CWPP process, identify and establish Core Team expectations, identify goals and objectives of the CWPP, discuss project schedule, and begin to document and discuss community hazards. The second meeting (held in person) would be convened to collaboratively develop risk reduction recommendations and would take the form of a full-day workshop. The third meeting would be convened (virtually) so that all parties can review and provide input on the draft CWPP deliverables.

SWCA would work with the GFR to promote and carry out two public meetings or community outreach events (in-person or virtual) designed based on community type, size, and demographics. This outreach would be used to engage local residents in the planning process, determine residents' perceptions of wildfire risk, identify tools that residents need to help them reduce their risk, and solicit feedback on proposed projects.

In addition to in-person engagement events, SWCA will work with the Core Team to develop materials to support education and outreach, and to solicit feedback from communities. This will include a printable and online community survey to be hosted on local agency websites and on the CWPP hub site and story map (Task 8), meeting flyers, content for social media posts, and two press releases to announce the CWPP at the start of the project and announce the CWPP draft for public review. SWCA will work with the Core Team and any public information staff to maximize dissemination of materials.

Assumptions

- The Core Team meetings will be a mixture of one in-person and two virtual meetings.
- The GFR will identify and secure a suitable venue for the in-person Core Team meeting at no cost to SWCA.
- SWCA would plan and host two public meeting/community outreach events.
- SWCA will send up to two team members to in-person public meetings or events.

- The GFR or Core Team will provide suitable venues for the public meetings/events at no cost to SWCA.
- SWCA has budgeted \$1,000.00 for printed materials for public events.
- Core Team members will participate in public events in person whenever possible.

TASK 3. GATHER DATA

For first two months from NTP

SWCA would gather relevant data for the CWPP to assist with analysis. This process would utilize a combination of Esri software, Microsoft Office Suite applications, and simple JPEG imagery. Data would include spatial data layers as well as written documentation.

Assumptions

- Data will be provided to SWCA within 2 weeks of request.

TASK 4. ESTABLISH COMMUNITY BASE MAPS

Within 3 months from NTP

Working collaboratively with the Core Team, SWCA would establish community base maps for the CWPP. The maps would present information that includes, but is not limited to, land ownership boundaries, vegetated areas that may contain critical human infrastructure, community WUI areas at risk, forest and grassland areas at risk for large-scale fire disturbance, watershed boundaries, fire history and previous fuel treatments, topographic conditions, access roads, hazardous materials locations, and locations of major water sources and suppression resources. SWCA would discuss and develop WUI delineations to provide additional details to determine project prioritization.

Assumptions

- The Core Team will provide one round of comments and edits to the base maps, at which point they will be considered final.

TASK 5. DEVELOP A COMMUNITY RISK ASSESSMENT

Initiated 2 months from NTP. Completed within 6 months from NTP

SWCA proposes the following technical approach to complete a Quantitative Wildfire Risk Assessment (QWRA) throughout the GFR planning area. The QWRA is used to analyze the potential frequency, intensity and consequences of wildfire across the landscape, with specific focus within the wildland urban interface.

DETERMINE WILDFIRE FUELS HAZARDS AND MODEL FIRE BEHAVIOR

SWCA will produce wildfire behavior models that include baseline fuels data (the 40 Scott and Burgan Fire Behavior Fuel Models), which will be obtained from the most recent national LANDFIRE data. In conjunction with hazardous fuels data, elevation, slope, aspect, topographic features, and fire behavior analysis will be assessed. Accurate assessment of potential fire behavior will be achieved using fire behavior models housed within the Interagency Fuel Treatment Decision Support System (IFTDSS) (e.g., BehavePlus, random ignition (RANDIG) probability, and FlamMap Grids outputs) that help determine the potential fire behavior across the landscape. Outputs that may be evaluated include flame length, rate of spread, fireline intensity, landscape burn probability, and crown fire potential.

Fire behavior parameters will be modeled under worst-case weather and fuel moisture conditions while analyzing historic weather data. Additional spatial data from local and national resources, such as risk to potential structures, wildfire hazard potential, Potential Operational Delineations (PODs), Potential Control Lines (PCLs), and suppression

difficulty index will be integrated as necessary to address hazards and risks. Our risk assessment will include an analysis of the fuels within the project area as well as a fire behavior model derived from a combination of these data sets to further spatially delineate wildfire risk. Model results will be reviewed through discussions with the Core Team to ensure that results account for local fuels, topography, and fire history conditions.

ASSESS RISK OF WILDFIRE OCCURRENCE

The SWCA team is aware of recent fires that have occurred in the region and will provide a detailed analysis of the area's fire history and assess future ignition risk. This will include a discussion of the area's historic fire regime, including the broader fire regimes of surrounding ecosystems. SWCA will run the IFTDSS RANDIG model to determine the probability of wildfire across the GFR planning area. Parameters such as location, topography, ignition source, fuel, weather, and the shape, size, and severity of past wildfires will be incorporated into our analysis. **Our modeling procedure will produce a quantitative wildfire risk assessment that rates land and highly valued resources and assets as having a high, medium, or low risk of wildfire.** The assessment created for the GFR planning area will be used to prioritize areas for treatment recommendations.

IDENTIFY HOMES, BUSINESSES, AND ESSENTIAL INFRASTRUCTURE AT RISK

SWCA understands that the GFR is currently completing a project to gather parcel level wildfire hazard assessment data that will be incorporated into GFR wildfire mitigation tools at a later date. To avoid redundancy, SWCA will not carry out on-the-ground assessments of structural fire hazard as part of the CWPP. Should the GFR wish to contract SWCA for these services, SWCA can prepare a separate scope and cost.

Whenever possible, SWCA would look to incorporate hazard assessment data gathered by third party contractors into the CWPP. SWCA will coordinate this integration with the GFR based on available data. Using this information, SWCA would develop, through collaboration with the GFR, a list of mitigation strategies and treatments for reducing structural ignitability in the home ignition zone and around essential infrastructure and community values (e.g., natural and cultural resources deemed of importance to individual communities, such as critical wildlife habitat, recreational sites, places of historical significance, or environmentally sensitive areas) at risk.

FUEL TREATMENT PRIORITIZATION

SWCA would discuss with the GFR the identification of local priorities for recommended fuel treatment projects. Treatment locations would be prioritized based on the wildfire risk to WUI communities and essential infrastructure, ingress and egress routes, and existing fuel conditions and historic fire and weather patterns. Recommendations for wildfire mitigation would not only be based on existing conditions but would also address potential future conditions related to climate change and by incorporating input from local agency specialists. Various mechanical and prescribed fire hazardous fuel treatments would be discussed and evaluated based on their effectiveness for each vegetation type and for each land ownership in the WUI. An important component when determining fuel treatment procedures is to incorporate current mitigation practices that are already being implemented on federal, state, and private land. SWCA will depend on the Core Team to provide these datasets for inclusion in the document.

ASSESSMENT OF OTHER COMMUNITY VALUES AT RISK

SWCA would encourage community involvement through the public meetings described above to develop a list of community values at risk within or adjacent to the WUI that would be prioritized when formulating treatment recommendations.

In addition, using Core Team input and spatial data, SWCA will identify natural, cultural, and socioeconomic assets within or adjacent to the WUI. In addition to homes, businesses, and essential infrastructure, these may also include water supply infrastructure, protected habitat, recreational zones, agricultural lands, scenic areas, and historically

significant sites. Values at risk pertinent to the community (structure density, critical infrastructure, water supply locations, and life and safety concerns) will be mapped and incorporated into the QWRA and mitigation strategies to ensure the CWPP reflects local priorities and place-based knowledge.

FIREFIGHTING CAPABILITY AND WILDFIRE READINESS

The CWPP would include an analysis of existing firefighting capability and the community's current preparedness to respond to wildfire. The CWPP would provide recommendations for improving organizational firefighting capability and wildfire readiness, based on input from the Core Team and local firefighting personnel.

INTEGRATION

The CWPP would be designed to complement existing emergency management planning and federal and state fire management planning by providing an overview of local, state, and federal fire management across the GFR planning area and in adjacent areas. SWCA would ensure that the plan integrates with all existing fire management planning and hazard mitigation planning with assistance from the Core Team. SWCA would ensure that the CWPP is in close alignment and integration with plans from neighboring counties and municipalities. Through this process, SWCA would assess existing collaboration between federal, state, county, and local agencies to make recommendations for improved communication and cooperation and address any disconnectedness between entities.

Assumptions

- One QWRA will be delivered as a draft for calibration of the probability model outputs and any desired adjustments to Highly Valued Resources or Asset (HVRA) values and weights. Any additional changes or re-analysis will not be required.
- No major changes requiring additional data collection, analysis, or re-analysis will be needed after the QWRA is completed.
- Fire probability modeling will use the RANDIG model at a given fire danger level (high, very high, extreme) as well as wind speed and wind direction, which will be provided by the client.
- Wildland fire modeling will show structure risk to developments immediately adjacent to wildland fuels, but proposed models do not incorporate a structure ignition model or evaluate spread through urban environments. SWCA understands that the GFR is currently working on an urban fire spread model with a third party, and if those data and products are available during the development of the CWPP, SWCA will work with the GFR to integrate this information into the CWPP as available. In the event that those datasets are not available to SWCA, urban conflagration hazard can be addressed qualitatively in the CWPP text.
- The Core Team will provide one round of comments on the fire behavior models and all mapping products, after which SWCA will incorporate comments, and the products will be considered final.
- SWCA will not complete on-the-ground assessments under this contract. SWCA will develop a separate SOW and cost should the GFR wish to contract these services.

TASK 6. DEVELOP THE CWPP

Initiated 6 months from NTP, completed within 9 months from NTP (period from 9–12 months for review and finalization)

The tasks above would be used during the development of the draft CWPP. The draft would be provided to the Core Team for review periodically throughout its development.

DEVELOPMENT OF PRIORITIES AND RECOMMENDATIONS

The CWPP should be structured to align with the National Cohesive Wildland Fire Management Strategy (CWS) to facilitate increased integration with national fire policy and funding. The CWPP can be structured into the three main goals of the CWS in the following way:

1. **Resilient Landscapes.** The CWPP would focus on recommendations for fuel treatments throughout the GFR planning area.
2. **Fire-Adapted Communities.** The CWPP would focus on recommendations for actions to prevent structural ignitability and public education and outreach.
3. **Safe and Effective Wildfire Response.** The CWPP would focus on recommendations for actions that address fire-fighting capability and wildfire readiness.

ACTION PLAN AND ASSESSMENT STRATEGY

For each CWS goal, SWCA would work with the Core Team to develop recommendation matrices that serve as action plans for implementation. These matrices can be used by stakeholders to pursue project implementation and gain funding. The recommendation matrices will include project descriptions, priorities, methodology and approach, timelines for implementation, potential funding sources, and agency and stakeholder contacts.

DRAFT CWPP AND REVIEW

SWCA would prepare a draft CWPP for the Core Team for review and comment, in accordance with the project schedule. The draft CWPP would incorporate community priorities and recommendations.

The public would be invited to provide written comments on the draft document during a public review period.

Assumptions

- Time frames and deadlines are dependent on timely transfer of documents and geographic information system (GIS) files. SWCA assumes all review periods will be adhered to by Core Team members. Delays may trigger schedule and budget changes.
- No major changes will be requested to the format or content of the CWPP after the initial outline has been approved by the Core Team (at Core Team meeting 1).
- Core Team members will provide all review comments in the requested format (tracked changes within the shared Microsoft Word document).
- SWCA assumes there will be no more than 100 public comments on the Draft document.

TASK 7. COMPLETE THE FINAL CWPP

Anticipated 12 months from NTP

SWCA would provide the press-ready, professionally edited CWPP to the GFR, Core Team, and other interested parties in digital format only.

Assumptions

- Deliverables produced by SWCA under Tasks 1–7 will be sent to the Core Team for one round of comments. After comments have been incorporated by SWCA, the deliverables will be considered final.
- All deliverables will be in an electronic format, except for the printed materials for Core Team meetings or public meetings. All digital files will be delivered using SWCA's SharePoint software unless otherwise requested by the GFR.

- The GFR is responsible for gathering all required signatories for the CWPP.
- The project will be completed within 1 year of NTP.

TASK 8. STORY MAP, PARCEL-LEVEL/STRUCTURE PROTECTION PLANNER, & PROJECT TRACKING APPLICATION

Anticipated 14 months from NTP

Using the GFR CWPP content and spatial data provided by the GFR and other stakeholders, SWCA will develop several online tools to support and promote the CWPP document. These platforms will elevate the functionality of the CWPP and enhance stakeholder engagement in the planning process. SWCA is aware that the GFR is creating an ArcGIS Online hub site and SWCA will work with the GFR's GIS staff to ensure that pertinent CWPP content is incorporated into the hub site.

Deliverables will include a CWPP story map that will create a highly functional, easy-to-use interface to convey the technical and scientific content created during the CWPP update, a Parcel-Level Assessment and Structure Protection Viewer and Planner, and a CWPP Project Tracking System.

SWCA assumes that our GIS specialists would be provided access to an existing local ArcGIS Online account and that the story map would, therefore, originate and be maintained through GFR's account. Alternatively, SWCA can work with the GFR GIS staff to set up a collaboration between ArcGIS Online organizations. SWCA will work closely with the GFR GIS staff on the development of the story map to ensure streamlined data sharing. SWCA has experienced geotechnical developers and can work with the GFR to accommodate its preferences and needs.

CWPP STORY MAP

The story map serves as a place where residents and stakeholders can access project recommendations, interact with baseline mapping and risk assessment information, tell the story of the Greater Flagstaff Region fire history, and seek mitigation measures they can take in and around their properties. Additionally, the story map will notify the public about opportunities for involvement and comment submittal. The story map will be designed to be accessible and easily navigable by the public. The story map can host the digital copy of the CWPP document for review and house a comment submittal form during public review periods. The story map will house the fully executed final CWPP.

All online deliverables are developed with accessibility in mind, and therefore SWCA works with our technical development department to test the accessibility of the hub and story map and ensure content is compliant with the Americans with Disabilities Act.

- Example of a CWPP story map: [Santa Clara County CWPP Story Map](#)

PARCEL-LEVEL ASSESSMENT AND STRUCTURE PROTECTION PLANNER

SWCA is aware of the GFR's efforts in completing parcel-level assessments and structure protection based on the existing National Fires Protection Association (NFPA) and National Wildfire Coordinating Group (NWCG) processes. SWCA proposes the creation of a parcel-level and structure protection planner that will facilitate assessors in the planning of assessments. In addition to the planner, SWCA proposes the creation of a public assessment viewer to illustrate where in the GFR planning area parcels and structures have been assessed, planned to be assessed, or are not assessed. SWCA will work closely with the GFR to ensure that proprietary data is not shared on the viewer.

- Example of similar parcel level assessment viewer: [Grand County Parcel Assessment Viewer](#)

PROJECT TRACKING SYSTEM

The story map and GFR's hub site provides the ability to host SWCA's unique CWPP project tracking system, which is designed to provide real-time updates and the ability for multi-agency coordination and collaboration well after the completion of the CWPP update project. SWCA will work with the GFR to input any existing treatment history datasets into the tracker. The tracking system can be developed to provide internal access only (not public facing) with a password that can be shared with external cooperators provided by the GFR's ArcGIS Online. The system has the potential to operate with the following features:

- Project database
 - Project entries and sub-entries into the database
 - Funding tracking
 - Milestone and goal tracking
 - Project constraint/opportunity tracking
 - Project progress tracking
 - Agency delegation
 - Images or other files attached to project records
 - Spatially delineated project locations/working areas

To demonstrate progress to the public and stakeholders, the project tracking system also includes a public facing dashboard that documents project progress and milestones.

- Example of the Project Tracking System and Project Dashboard: <https://cwpp-project-tracking-system-swcagis.hub.arcgis.com/>

Assumptions

- SWCA staff will be granted access to the GFR's ArcGIS Online to create the story map. SWCA will collaborate with the GFR's GIS staff to secure an account.
- The ArcGIS Online products developed during Task 8 will be developed throughout the life of the contract, with final delivery estimated at 14 months from NTP in order to accommodate integration of the final CWPP deliverable.

COST ESTIMATE

Based on thoughtful consideration of the project requirements and a thorough estimate of the required labor and direct costs, SWCA proposes a time-and-materials budget not to exceed without client approval total of **\$259,390** to complete the project as presented in the table below. The scope of services and cost estimate are based on our knowledge of the project, consultation with our technical experts, and experience with similar projects.

To accommodate project changes and scheduling, it is assumed that SWCA will be able to use the overall project funding and will not be held to phase and task limits so long as the overall budget is not exceeded. Because the work will be contracted through a cooperative purchase agreement under SWCA's existing Arizona Department of Administration environmental services on-call, this cost estimate is based on established rates and is subject to applicable special terms and conditions as stipulated under Contract No. CTR066941 (expiring July 31, 2028).

Table 1. Cost Estimate.

| TASK | LABOR \$ | EXPENSES \$ | NTE TOTAL \$ |
|--|------------------|--------------------|---------------------|
| Task 1. Convene Kick-off Conference Call & Identify Core Team | \$16,808 | – | \$16,808 |
| Task 2. Host Core Team Workshops and Public Outreach | \$51,957 | \$5,240 | \$57,197 |
| Task 3. Gather Data | \$20,126 | – | \$20,126 |
| Task 4. Establish Community Base maps | \$11,241 | – | \$11,241 |
| Task 5. Develop a Community Risk Assessment | \$20,934 | – | \$20,934 |
| Task 6. Develop the CWPP | \$55,562 | – | \$55,562 |
| Task 7. Complete the Final CWPP | \$39,551 | – | \$39,551 |
| Task 8. Story Map, Parcel-level/Structure Protection Planner, & Project Tracking Application | \$37,971 | – | \$37,971 |
| PROJECT TOTAL | \$254,150 | \$5,240 | \$259,390 |

Note: Costs are inclusive of project management and administrative labor.

EXHIBIT B - AGENCY CONTRACT

Katie Hobbs
Governor



Elizabeth Alvarado-Thorson
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

1400 W. WASHINGTON ST., SUITE B200
PHOENIX, ARIZONA 85007
(602) 542-1500

July 28, 2023

Sent via email: jsterling@swca.com

SWCA Environmental Consultants

Jana Sterling, Vice President, Southwest
20 East Thomas Road, Suite 1700
Phoenix, AZ 85012
(928) 774-5500

Re: Award of Contract No. CTR066941 On-Call Environmental Services

Dear Ms. Sterling,

Congratulations on your award of contract CTR066941 On-Call Environmental Services. The initial contract term shall begin on **July 31, 2023**. Please submit your current Certificate of Liability Insurance to me by Monday, August 7, 2023.

The attached document is your fully executed contract and includes the following:

- Award letter
- Executed Offer and Acceptance
- Fee Sheet
- Supplier SOQ
- BPM005468 Solicitation

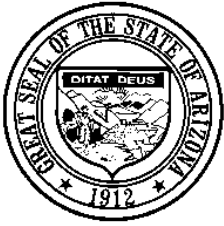
You are cautioned not to begin any work under the contract until you have been issued a Task Order and purchase order.

We look forward to working with you and if you have any questions regarding your company's contract, please contact me at crista.clevenger@azdoa.gov or (602) 489-9116.

Sincerely,

A handwritten signature in blue ink that reads "Crista J. Clevenger".

Crista J. Clevenger
Construction Procurement Manager



**Request for Qualifications
Attachments & Response Forms**
Solicitation No. **BPM005468**

Description:
~~ON-CALL ALTA LAND SURVEYING &
ENVIRONMENTAL SERVICES~~

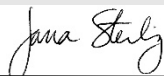
Arizona Department of
Administration
General Services Division
1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Attachment 1: Offer and Acceptance Form

OFFER

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service and/or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status if checked below (No. 4).

| | |
|---|--|
| <u>SWCA, Inc., dba SWCA Environmental Consultants</u> Company Name |  Signature of person authorized to sign |
| <u>20 East Thomas Road, Suite 1700</u> Address | <u>Jana Sterling, Vice President, Southwest</u> Printed name and title |
| <u>Phoenix, AZ 85012</u> City, State, ZIP | <u>jsterling@swca.com</u> Contact email address |
| <u>(928) 774-5500</u> Contact Phone Number (Office) | <u>(928) 607-9862</u> Contact Phone Number (Mobile) |
| <u>KJ64MREJDNL1</u> Unique Entity ID (SAM #) | <u>N/A</u> ROC #(s) |
| <u>86-0483317</u> Federal Tax Identifier (EIN or SSN) | <u>0164638-7</u> State Tax Identifier |

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization IS/ IS NOT a small business with less than 100 employees or has gross revenues of \$4 million or less in prior FY.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This Contract shall henceforth be referred to as Contract No. CTR066941.

The effective date of the Contract is July 31, 2023.

The Contractor is cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

State of Arizona Awarded this 28 day of July, 2023

Procurement Officer Crista J. Clevenger

2023 LABOR CATEGORIES AND BILLING RATES

Environmental Consulting Services

| Cultural Resources | | Graphics/Media Production | |
|--------------------------------|----------|---------------------------|----------|
| Environmental Resources | | GIS/CADD Resources | |
| Paleontology | | Technical Writing/Editing | |
| Scientific Resources | | Training/Facilitating | |
| Planning Resources | | Air Quality | |
| Subject Matter Expert IV..... | \$279.00 | Specialist VIII..... | \$150.00 |
| Subject Matter Expert III..... | \$255.00 | Specialist VII..... | \$140.00 |
| Subject Matter Expert II..... | \$230.00 | Specialist VI..... | \$130.00 |
| Subject Matter Expert I..... | \$219.00 | Specialist V..... | \$117.00 |
| Specialist XII..... | \$215.00 | Specialist IV..... | \$107.00 |
| Specialist XI..... | \$197.00 | Specialist III..... | \$97.00 |
| Specialist X..... | \$180.00 | Specialist II..... | \$85.00 |
| Specialist IX..... | \$161.00 | Specialist I..... | \$72.00 |
| | | Technician II..... | \$60.00 |

Engineering and Special Services (Tier 1)

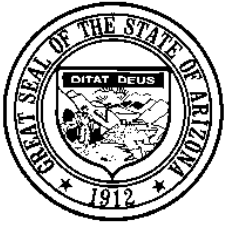
| | | | |
|--------------------------------|----------|----------------------|----------|
| Subject Matter Expert IV..... | \$280.00 | Specialist X..... | \$197.00 |
| Subject Matter Expert III..... | \$265.00 | Specialist IX..... | \$180.00 |
| Subject Matter Expert II..... | \$240.00 | Specialist VIII..... | \$161.00 |
| Subject Matter Expert I..... | \$230.00 | Specialist VII..... | \$150.00 |
| Specialist XII..... | \$230.00 | Specialist VI..... | \$140.00 |
| Specialist XI..... | \$215.00 | Specialist V..... | \$130.00 |
| | | Specialist IV..... | \$117.00 |

Direct expenses are subject to a 15% administrative markup and subcontractor expenses are subject to a 20% administrative markup. These rates do not apply to depositions or testimonies at administrative hearings and trials. Such activities fall under our Expert Witness rates, which vary by state.

A communication/data fee is invoiced at a rate of 3% of labor to cover such expenses (i.e.: cell phones, data plans, faxes, etc.).

Overtime is invoiced at 1.2 times standard rates.

Per Diem is billed at the GSA rate in place at the time of billing. Mileage is billed at the IRS mileage rate in place at the time of billing.



**Request for Qualifications
Attachments & Response Forms**
Solicitation No. **BPM005468**
Description:
**ON-CALL ALTA LAND SURVEYING &
ENVIRONMENTAL SERVICES**

Arizona Department of
Administration
General Services Division
1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Attachments for BPM005468 On-Call ALTA Land Surveying & Environmental Services contains the forms that are to be submitted as part of the Offer when responding to this Solicitation. Unless stated otherwise, all pre-printed forms provided in this document shall be completed using the document provided according to the instructions as stated in the solicitation.

OFFEROR MAY SUBMIT MORE THAN ONE PROPOSAL. PLEASE INDICATE WHICH DISCIPLINE YOUR PROPOSAL IS BEING SUBMITTED FOR. UP TO 10 CONTRACTS CAN BE AWARDED FOR EACH DISCIPLINE.

- LAND SURVEYING** **ENVIRONMENTAL**

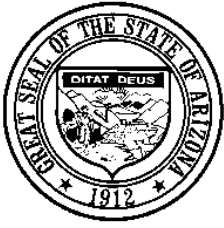
OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE SOLICITATION BEFORE COMPLETING THESE FORMS AND SUBMITTING THE OFFER.

LIST OF ATTACHMENTS

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APP Step-By-Step Guides and Quick Reference Guides are accessible on the APP website <https://appstate.az.gov>. Technical inquiries about submitting your offer in APP should be submitted to the APP Help Desk by phone at (602) 542-7600, option 1, or by email at app@azdoa.gov

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.



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Attachment 1: Offer and Acceptance Form

OFFER

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service and/or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status if checked below (No. 4).

| | |
|---|--|
| <u>SWCA, Inc., dba SWCA Environmental Consultants</u> Company Name |  Signature of person authorized to sign |
| <u>20 East Thomas Road, Suite 1700</u> Address | <u>Jana Sterling, Vice President, Southwest</u> Printed name and title |
| <u>Phoenix, AZ 85012</u> City, State, ZIP | <u>jsterling@swca.com</u> Contact email address |
| <u>(928) 774-5500</u> Contact Phone Number (Office) | <u>(928) 607-9862</u> Contact Phone Number (Mobile) |
| <u>KJ64MREJDNL1</u> Unique Entity ID (SAM #) | <u>N/A</u> ROC #(s) |
| <u>86-0483317</u> Federal Tax Identifier (EIN or SSN) | <u>0164638-7</u> State Tax Identifier |

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization IS/ IS NOT a small business with less than 100 employees or has gross revenues of \$4 million or less in prior FY.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

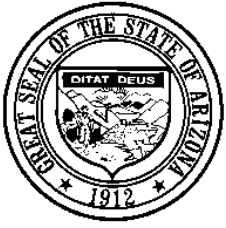
This Contract shall henceforth be referred to as Contract No. _____.

The effective date of the Contract is _____.

The Contractor is cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document or written notice to proceed.

State of Arizona Awarded this _____ day of _____ 2023

Procurement Officer _____



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Attachment 2-A: Offeror Information Questionnaire

Failure to fully address all information requested may cause the statement of qualifications to be determined non-responsive.

1. Describe the firm's and the proposed lead team member's previous design and construction administration experience for projects similar in size and scope to this project.

Company Overview

SWCA Environmental Consultants (SWCA), a 100% employee-owned S-Corporation established in Flagstaff, Arizona, in 1981 and now headquartered in Phoenix, Arizona, specializes in providing comprehensive environmental planning, regulatory compliance, and natural and cultural resources management services to businesses and governmental clients across the United States. We work to understand the full life cycle of each project, from its early inception to completion. In the face of rapid environmental, economic, and societal changes, SWCA provides a thorough approach to these ever-changing challenges. We apply our motto, **Sound Science, Creative Solutions**, to each of our projects, producing defensible technical results that ensure project success.

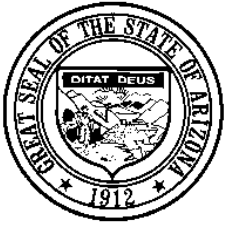
SWCA's dedicated team of qualified professionals provides a full suite of in-house environmental services in Arizona. Since our founding, SWCA has grown to more than 1,400 employees across 40 offices, including three offices in Arizona—Flagstaff, Phoenix, and Tucson. With SWCA's local team of environmental professionals and company-wide support, we are prepared for any scale of project and have the capacity and experience to successfully manage and complete multiple assigned tasks concurrently.

SWCA has supported more than 8,000 environmental projects across all 15 Arizona counties since our founding in 1981. We apply our high-level technical, scientific, and management expertise while managing multiple on-call contracts in Arizona. **We currently hold more than 80 master service agreements and 15 on-call contracts in Arizona**, including with the Arizona

Department of Environmental Quality; the Arizona Department of Administration State Procurement; and local municipalities such as Pinal and Pima Counties, Phoenix (Street Transportation, Housing Departments), Tempe, Mesa, Chandler, Peoria, and Tucson. We are a qualified vendor for the Arizona Department of Administration. We understand the specific project needs and processes for Arizona State Land Department (ASLD) projects, including obtaining purchase orders, invoicing, and producing and submitting deliverables.

Environmental Services

- Phase I Environmental Site Assessments
- Waters of the U.S. (WOTUS) evaluations, including preliminary and approved jurisdictional determinations (JDs)
- Clean Water Act (CWA) Section 404 Permitting
- Biological evaluations (BEs), including Endangered Species Act compliance
- Native plant and noxious weed inventories
- In-house geographic information system (GIS) and data analysis support
- Unmanned aerial system, aka "drone," services
- Other various environmental planning, cultural resources, public involvement, and environmental compliance services



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Hazardous Materials

SWCA has the experience and expertise needed to complete thorough Phase I environmental site assessments (ESAs) to identify the potential presence of contaminants on a given property. We have successfully completed hundreds of ESAs in locations ranging from uninhabited deserts and mountains to dense metropolitan settings in much of the United States. We have conducted internal classroom and field sessions on ESA field and writing techniques. Our ESA specialties also include performing Federal Aviation Administration Standard Phase I Environmental Due Diligence Audits for airport projects. We also apply the principles of ESAs to local and state Department of Transportation (DOT) projects. Our team of experts includes staff members with strong backgrounds in site assessment, hydrology, sampling protocols, and remediation technologies.

Biological and Natural Resources

Our expertise in biological and natural resources covers all aspects of regulatory assistance and compliance. In addition, our team provides environmental inspection and construction monitoring for Migratory Bird Treaty Act and other wildlife regulatory compliance support and postconstruction restoration inspection and monitoring. Many of our projects include surveys and/or consultations for southwestern willow flycatcher, yellow-billed cuckoo, Sonoran desert tortoise, and bird species protected under the Migratory Bird Treaty Act, including burrowing owls. We maintain the state and federal permits necessary for surveying for federally listed species. **These permits allow us to conduct species-specific protocol surveys on federal, ASLD, local municipality, and private lands.**

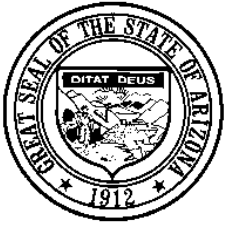
SWCA has completed vegetation management plans for compliance with a variety of requirements by agencies, including the ASLD, Bureau of Land Management (BLM), and local municipalities. Such plans can support the development of salvage plans, planting plans, and restoration plans for preconstruction permitting requirements, response to emergencies, and postconstruction rehabilitation projects. We have completed numerous native plant inventories for utility right-of-way applications on State Trust Lands for use in plant valuations using plot and 100% survey methodologies.

Our habitat assessment experience is extensive and wide ranging. The project areas we assess range in size from less than 1 acre to more than 5,000 acres, with land uses ranging from urban and suburban environments to open undisturbed desert and grassland habitats and everything in between.

Our typical scope of work for completing BEs includes biologist visits to the project area to document and describe vegetation types and other habitat features potentially important to listed or other special-status species. In addition, we record a list of dominant plant and animal species. Based on site reconnaissance and available sources of information on habitat requirements and distribution, we evaluate project areas for the potential presence of such species.

Team Experience

- Wildlife surveys
- Native plant surveys
- Special-status species surveys
- Site inventories and habitat assessments
- Ecological studies
- Vegetation management plans
- Facilitating meetings with stakeholders and federal agencies
- Biological assessments
- BEs
- Habitat conservation plans



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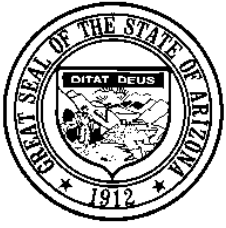
Clean Water Act Services

SWCA has been assisting private- and public-sector clients with Clean Water Act (CWA) Section 404 compliance and permitting for decades, and we have the expertise and experience needed to help ASLD navigate the ever-changing CWA regulatory environment. Our water specialists have worked with ASLD personnel on completing and reviewing jurisdictional waters delineations on State Lands for various land development types, including land sales and solar lease sales. We have prepared numerous U.S. Army Corps of Engineers (USACE)-compliant documents, including waters of the U.S. (WOTUS) evaluations; preliminary and approved jurisdictional determinations (JDs); significant nexus evaluations; watershed analyses; jurisdictional waters avoidance and minimization analyses; project-specific documentation of non-notifying Nationwide Permit coverage; preconstruction notifications; Section 404 Individual Permit applications with associated environmental assessments (EAs) and Section 404(b)(1) alternatives analyses; functions and services assessments; habitat management and mitigation plans; mitigation monitoring; and biological and cultural resources documentation in support of Section 404 compliance. As the client's agent, we work closely with USACE project managers and other stakeholders to identify and resolve complex delineation and permitting issues and to develop the best strategy to obtain project authorization.

We work closely with the USACE to identify the limits of WOTUS through the agency's JD processes and to obtain authorization for Nationwide and Individual Section 404 Permits. We remain up to date on CWA regulations effective in Arizona by closely monitoring associated ongoing litigation and maintaining open communication with the USACE's Arizona Regulatory Branch; this helps us minimize regulatory delays. The definition of WOTUS is under review by the USACE and U.S. Environmental Protection Agency (EPA), and SWCA will continue to actively monitor agency notices to advise our clients of regulatory guidance changes as they occur and will proactively incorporate anticipated guidance to facilitate the USACE's review and determination without the need for significant revisions to project documentation.

Our qualified staff is also experienced with Arizona Department of Environmental Quality (ADEQ) Section 401 Water Quality Certification and Section 402 stormwater compliance processes. If needed, we can assist with Section 401 Water Quality Certification applications; State Surface Water Protection Program reviews; surface water quality sampling and monitoring; Arizona Pollutant Discharge Elimination System permitting; stormwater pollution prevention plan preparation and inspections; best management practices implementation, oversight, and inspections; preparation of spill prevention control and countermeasure plans and other environmental compliance management plans; and worker environmental awareness programs and training.

For CWA permitting compliance, public and agency outreach is commonly addressed through the USACE's and ADEQ's public notice processes. SWCA has worked closely with the USACE and ADEQ to facilitate preparation and distribution of public notices, respond to comments provided during the outreach process, and incorporate stakeholder feedback as appropriate.



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Why SWCA

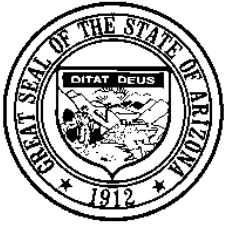
SWCA has the demonstrated expertise and experience needed to provide all the tasks and services requested in this request for qualifications (RFQ). The following sets SWCA apart from other firms offering environmental services:

- ✓ 40+ years of demonstrated success in Arizona
- ✓ Documented record of on-time and within-budget delivery of services
- ✓ Client-oriented services within a scientific research framework
- ✓ Multiple offices in Arizona from which additional subject expertise, field personnel, equipment, and local research can be drawn
- ✓ Offices that are connected virtually through the company intranet, which enables seamless data sharing among offices and with clients
- ✓ In-place, company-wide safety and quality assurance/quality (QA/QC) control programs
- ✓ A corporate accounting department familiar with the requirements of special-funding contracts and capable of providing the invoices and documentation required by clients
- ✓ Company employee ownership and a culture that allows us to attract and retain the best people. We care about your projects and are invested in finding the solutions you need to achieve your goals and objectives.

Why SWCA?

- We have provided environmental services in Arizona since 1981 and have strong relationships with local agencies' staff.
- With three offices in Arizona, we can mobilize quickly to meet project deadlines
- Our experienced team is committed to delivering the services requested for the life of the contract.
- Our team maintains up-to-date knowledge on all local regulations and understands the Arizona landscape and its resources.
- Our team is local; we understand the importance of preserving our resources and are passionate about completing this work within our community.

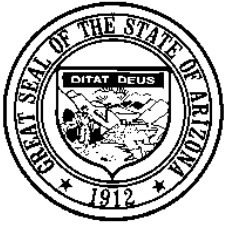
2. Create a three-column chart. In the first column, list the past project title, budget, and year completed (listing only past projects with similar scope and budget within the past seven years) the firm has been the lead design professional. In the second column of the chart, list the names of any proposed key personnel and subcontractor(s) (if any) "team member" identified for this project that performed services for the project in column one and the team member's role for the listed project. In column three provide best practices and lessons learned for each project.



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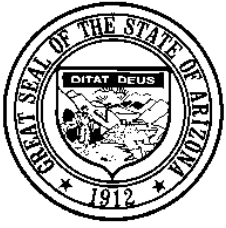
| <p><i>Past Projects</i> <i>(Within last seven years similar in size and scope.)</i></p> | <p><i>Proposed Key Personnel</i> <i>(Performing role on past project)</i></p> | <p><i>Best Practices and Lessons Learned</i></p> |
|--|--|--|
| <p>Central Arizona Project (CAP) Trail EA in Pinal County, Arizona \$142,912 2020–2022</p> | <p>Russell Waldron, CWA Section 404 Lead Victoria Casteel, CWA Section 404 Support Eleanor Gladding, Biology Lead Michael Standart, GIS Support</p> | <p>Effective coordination between SWCA, the client, and agencies and stakeholders can lead to lower costs and better solutions for the project. Bureau of Reclamation (Reclamation) biologists required the County to address wildlife corridor concerns at the Picacho Mountains. Initially, extensive design requirements were suggested. The design requirements would have made the project cost prohibitive for the County. SWCA and Reclamation engaged in deeper discussions for the non-motorized uses and their impact, workshopping scenarios to better understand outcomes. Through discussions with users, trail managers, and biologists, the project team successfully implemented a signage program mitigation measure to address the wildlife corridor potential impacts, reducing costs for the County while allowing the County to continue to manage and protect important environmental resources. SWCA coordinated these with the County’s project engineering and design team.</p> |



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| <i>Past Projects</i> <i>(Within last seven years similar in size and scope.)</i> | <i>Proposed Key Personnel</i> <i>(Performing role on past project)</i> | <i>Best Practices and Lessons Learned</i> |
|---|--|---|
| Confidential Wind and Solar Development project in Coconino County, Arizona \$1,675,191 2020–2022 | Steve O’Brien, Phase I ESA Lead Russell Waldron, CWA Section 404 Lead Victoria Casteel, CWA Section 404 Support Eleanor Gladding, Biology Support | Maintaining close relationships with agency contacts is beneficial for remaining current on changes in regulatory guidance and procedures. SWCA maintains ongoing communication with USACE PMs, which facilitates staying up to date on the ever-changing CWA regulations and guidance. Additionally, SWCA coordinated with ASLD to identify the protocol for submitting WOTUS evaluation reports to the ASLD for review for a given project when needed (i.e., only if a JD request will be submitted to the USACE). |
| Confidential Development Project near Lake Havasu City in Mohave County, Arizona \$48,888 2021 | Victoria Casteel, Project Manager (PM) Steve O’Brien, Phase I ESA Lead | Collaboration between field staff across services and the use of drones for field data capture can provide significant cost savings during survey of large project sites. SWCA was able to combine the jurisdictional delineation, biological resources, and Phase I ESA field reconnaissance efforts to reduce mobilization costs. SWCA also used drone technology to capture aerial images of the 626-acre project site to supplement the field data, which reduced staff time in the field while allowing them to maintain the same high quality of data collection. |



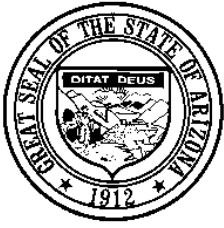
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| <i>Past Projects</i> (Within last seven years similar in size and scope.) | <i>Proposed Key Personnel</i> (Performing role on past project) | <i>Best Practices and Lessons Learned</i> |
|--|--|--|
| Shadow Canyon in Buckeye, Maricopa County, Arizona \$39,274 2021–ongoing | Victoria Casteel, PM Russell Waldron, CWA Section 404 Lead | Early communication between the client and SWCA to ensure a full and agreed-upon understanding of the full scope of the project and area of potential affect (to include all areas of potential ground disturbance and construction access) has been key to avoiding the need for rework later in the project process and achieving successful delivery on schedule and under budget. Coordination with agencies and stakeholders during the planning process led to multiple changes in site design, layout, and access needs. SWCA coordinated closely with the project proponent throughout the planning process to identify the appropriate area of potential effect for the project. Once the area of potential effect was identified, SWCA team leads coordinated on field reconnaissance efforts across services (e.g., biological and CWA Section 404 efforts) to minimize field time and costs. |

- In Attachment 3-B. Provide key personnel by the name, title, and directly responsible person who will be engaged in the work. An individual may be identified for more than one project discipline, or multiple individuals named to one single discipline. Describe each Individual’s specific qualifications and experience directly related to each type of Services proposed. Focus on the proposed individual’s specific duties and responsibilities and how project experience is relevant to each type of proposed Services.

Attachment 3-B is included with this submission.



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Attachment 2-B: Experience and Organizational Profile

Failure to fully address all information requested may cause the bid to be determined non-responsive.

| | | | |
|--|--|-------------------------|------|
| Firm Name | SWCA Inc., dba SWCA Environmental Consultants | Year Established | 1981 |
| Principal Address (Street, City, State) | 20 East Thomas Road, Suite 1700 Phoenix, AZ 85012 | | |
| Years' Experience performing services similar in size and scope as required by this solicitation. | | | 40 |
| Years the organization has conducted business in the State of Arizona. | | | 42 |

CONTRACT REPRESENTATIVES TO CONTACT

| | Name | Title | Telephone Number | E-Mail Address |
|---|---------------|------------------------------------|------------------|-----------------------|
| 1 | Jana Sterling | Vice President - Southwest | (928) 774-5500 | jsterling@swca.com |
| 2 | Don Kelly | Senior Director - Southern Arizona | (480) 581-5354 | donald.kelly@swca.com |

THREE (3) PROJECTS COMPLETED BY FIRM SIMILAR IN SIZE AND SCOPE / REFERENCES

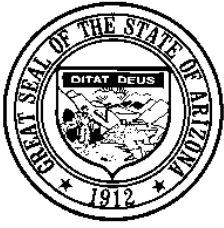
| 1 | Client Company/Address | Contact | Begin Date | End Date |
|---|---|---------------------------------------|---|----------|
| | City of Phoenix 200 West Washington Street Phoenix, Arizona 85003 | Melinda Jones | 2015 | Ongoing |
| | | Phone Number (602) 495-5341 | Email Address Melinda.Jones@phoenix.gov | |

Services Provided Similar to Those Described in Solicitation

City Of Phoenix Housing and Urban Development (HUD) On-call Environmental Services

SWCA completes HUD environmental reviews in compliance with the National Environmental Policy Act (NEPA) for the City of Phoenix Neighborhood Services and Housing Departments On-Call contract. We have an experienced, dedicated local staff who respond quickly and efficiently to meet deadlines. Our staff also completes emergency reviews, which must be completed within 24 hours of assignment. Appointing a dedicated PM has streamlined our ability to complete these reviews; SWCA routinely assists the City of Phoenix and knows the applicable City codes, portal and software used for review submittals, and the necessary coordination with City and State departments.

Since 2015, SWCA has assisted the City of Phoenix in developing NEPA reviews (including categorical exclusions and EAs) for HUD-funded projects in Phoenix. These projects range in complexity and thus require a nimble PM with a deep bench of specialists. To date, SWCA has completed more than 550 assignments under this contract. Collectively, the SWCA HUD team has completed more than 1,400 assignments for the City since 2010.



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| 2 | Client Company/Address | Contact | Begin Date | End Date |
|---|---|---------------------|----------------------|-----------|
| | Water Infrastructure Finance Authority of Arizona (WIFA) | Lindsay Jones | March 2021 | July 2021 |
| | | Phone Number | Email Address | |
| | | (602) 364-1324 | ljones@azwifa.gov | |

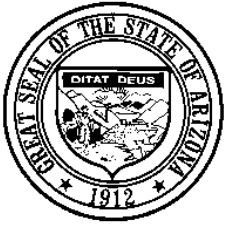
Services Provided Similar to Those Described in Solicitation
WIFA City of Somerton Water System Improvements Project
 The City of Somerton Water System Improvements Project involved installing a 10-inch and a 12-inch water main extension along roadways between Cesar Chavez Avenue along Jefferson Street and the proposed Avenue F ¼ alignment and Main Street (U.S. Highway 95) to develop approximately 55 acres of undeveloped City-owned land and adjacent Yuma Union School District–owned land. The Proposed Action requested funds from the Drinking Water State Revolving Fund (DWSRF) administered by WIFA and therefore was subject to WIFA’s National Environmental Policy Act (NEPA)–like environmental review process. SWCA prepared an Environmental Information Document (EID) for the project following WIFA’s template to ensure environmental compliance.

SWCA is an approved vendor for WIFA and regularly prepares EIDs for projects that receive funding from the DWSRF via WIFA. The EIDs provide an environmental review of the project area to identify environmental resources (e.g., biological, water, and cultural resources) in the project area, potential project impacts, and mitigation measures to avoid or minimize any adverse impacts.

| 3 | Client Company/Address | Contact | Begin Date | End Date |
|---|---|---------------------|-----------------------|------------|
| | Pinal County Open Space & Trails P.O. Box 2973 Florence, AZ 85132 | Kent Taylor | August 2020 | March 2022 |
| | | Phone Number | Email Address | |
| | | (520) 509-3555 | kent.taylor@pinal.gov | |

Services Provided Similar to Those Described in Solicitation
Central Arizona Project (CAP) Trail
 SWCA supported Pinal County in developing 40 miles of non-motorized trail as a segment of the CAP Trail, which is intended to be incorporated into the national recreation trail system eventually. The trail would be located on federal, state, and county-owned land adjacent to the CAP, with U.S. Bureau of Reclamation as the lead federal agency. Because the project involved four agencies (CAP, Reclamation, the Central Arizona Water Conservation District, and ASLD) and multiple stakeholders (City of Coolidge, recreation groups, and equestrian groups), SWCA developed and maintained a centralized SharePoint site, wherein the agencies and Pinal County could interactively review documents, comments, and schedules and receive results in real time. SWCA provided monthly progress reports and held monthly project meetings to share project concerns, ensuring that meeting project development milestones stayed on track.

The SWCA team supported Pinal County during the entire NEPA process under the direction of Reclamation. SWCA developed a mailing list and public scoping flyers and maps and worked with local libraries and newspapers to provide project information to stakeholders. SWCA worked closely with Reclamation specialists on sensitive resource issues, including researching Pima and Pinal Counties comprehensive plans; the City of Coolidge’s general plan; and land use, wildlife corridors, and cultural resources sites. In addition, we coordinated these resource issues with Pinal County’s project engineering and design team, where a trailhead was redesigned to address resource impacts. SWCA produced a biological evaluation, a cultural resources report, an EA, a finding of no significant impact, and an administrative record for the project.



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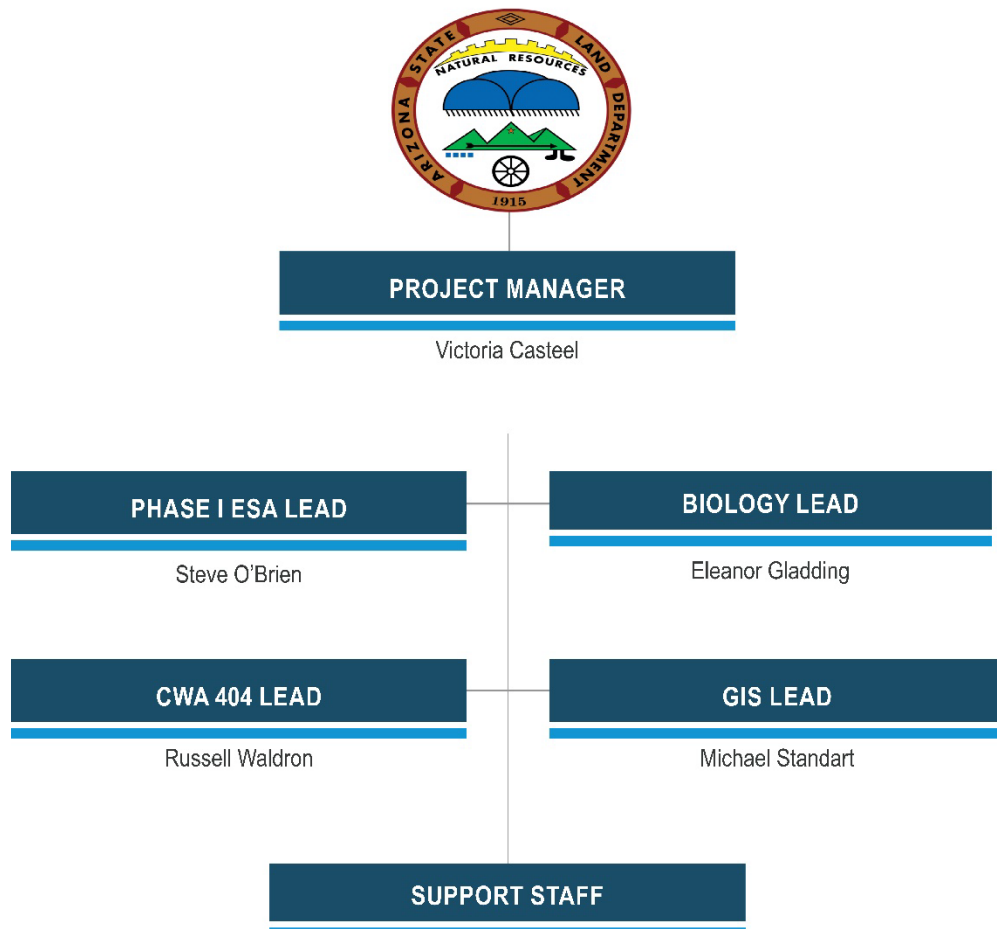
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Attachment 3-A: Method Proposal

(Method of Approach)

Response must demonstrate your comprehension of the objectives and services of this solicitation. Do not merely duplicate the description of work described in this Request for Qualifications (RFQ). Firms shall provide responses directly below the numbered questions in this attachment.

1. Substantiate how your team can most effectively undertake the requirements and responsibilities associated with the on-call professional services for the state of Arizona and your proposed team’s understanding of this scope of services by:
 - a) Providing an organizational chart clearly identifying the lines of authority.





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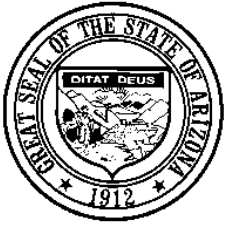
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b) Describing your current workload and availability of designated team staff (including Sub-Consultants). Indicate the relationship of the work in this RFQual to the firm’s other current projects.

Staff availability and responsiveness are critical elements to consider when managing and completing work on a tight schedule for multiple projects simultaneously. We have permanent in-house staff members who can fully support the work for the duration of this contract. We will be available to respond to and complete task orders and provide advice when requested, help develop cost-efficient scopes of work, and identify potential environmental constraints and opportunities as needed. Our team of full-time, permanent SWCA employees can quickly fulfill any requests, even on extremely short notice. Additionally, our staff seamlessly integrates with other offices, enabling us to provide extra support. With a large team of hundreds of professionals, we are capable of tackling projects with tight deadlines or requiring specialized expertise for CWA, Phase I ESA, and biological resources due diligence tasks such as those mentioned in the RFQ, as well as many other environmental services not mentioned in the RFQ. SWCA currently provides environmental services such as the due diligence tasks in the RFQ for a wide range of projects.

The following chart may be utilized to show current workload of proposed team members. Additional lines may be added as needed.

| Project Team Member | Current Workload | Commitment (%) | Total Availability (%) |
|--|--|----------------|------------------------|
| Victoria Casteel, PM | | | |
| | Various WIFA on-call projects | 10 | 30 |
| | Confidential line siting and certification of environmental compliance project | 10 | |
| | Salt River Project Roosevelt Dam Habitat Conservation Plan Amendment and Incidental Take Permit EA Project | 15 | |
| | Miscellaneous confidential environmental planning and water resource projects | 35 | |
| Steve O'Brien, Phase I ESA Lead | | | |
| | Confidential projects | 65 | 25 |
| | Marketing and proposals | 10 | |
| Eleanor Gladding, Biology Lead | | | |
| | Confidential projects | 30 | 30 |
| | Miscellaneous projects | 40 | |
| Russell Waldron, CWA Section 404 Lead | | | |
| | Waha Baja Pipeline Services | 10 | 30 |
| | Miscellaneous water resource projects | 30 | |
| | Business development and staff development for miscellaneous projects | 30 | |



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| Project Team Member | Current Workload | Commitment (%) | Total Availability (%) |
|----------------------------|------------------------|----------------|------------------------|
| Michael Standart, GIS Lead | | | |
| | Confidential projects | 80 | 15 |
| | Administrative support | 5 | |

2. Describe your proposed team’s general approach to managing on-call projects of various sizes and complexity meeting the requirements as stated in the Statement of Work Section.

SWCA is able to successfully manage a variety of projects simultaneously by establishing a main SWCA point of contact and skilled team leads for all ASLD on-call projects, maintaining open communication with ASLD at all times, developing a project management plan for each project, and collaborating internally with team leads and staff on an ongoing basis until each project is complete. Our team knows ASLD’s staff and understands ASLD’s unique project needs and processes.

SWCA has the capacity and experience to successfully conduct and complete multiple projects simultaneously. Our specialists often have overlapping areas of expertise and can quickly fulfill most requirements, even on extremely short notice. Led by PM Victoria Casteel, our team is fully prepared, qualified, and capable of performing Phase I ESAs and providing CWA support and biological resource services in-house for projects that range in size and complexity. Any additional services needed (e.g., Phase II ESAs) will be subcontracted as needed and overseen by the SWCA PM.

SWCA’s project management approach recognizes that clear, effective communication is key to the success of each project. Our communication style is direct and to the point, with clear protocols in place about how, when, and with whom we communicate. SWCA PM Victoria Casteel will manage all SWCA communication with ASLD, with support from the SWCA Team Leads and our Project Controls Program, as appropriate. SWCA will not contact other state or federal agencies (e.g., State Historic Preservation Office, USACE), unless directed by ASLD.

At the start of every project, Ms. Casteel will coordinate with ASLD staff to develop a project management plan that

- ✓ identifies team members from ASLD and SWCA and reviews roles and responsibilities;
- ✓ establishes a communication plan;
- ✓ identifies the project scope and associated environmental tasks;
- ✓ establishes schedule milestones;
- ✓ identifies short-term action items;
- ✓ details the protocol for submittals, review periods, and approval of deliverables; and
- ✓ establishes a process for information flow.

Once the project management plan is in place, the SWCA PM, in collaboration with team leads, will oversee the preparation and successful completion of all deliverables on time and on budget.



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3. Once the State has accepted the Design schedule, demonstrate how your firm will manage and maintain the schedule dates.

The SWCA PM, with assistance from SWCA Project Controls personnel, will oversee on-call contract administration and will track our schedule and budget for each project. SWCA uses Smartsheet with Resource Management and Microsoft Project software to track field visits, reporting milestones, deliverable due dates, and other aspects of project schedules. Throughout the life of the on-call contract, SWCA's PM will maintain regular communication with ASLD to provide schedule updates for each project and ensure on-time completion of deliverables.

SWCA will continue to provide deliverables to ASLD within expected time frames by maintaining multiple staff members with the capability and capacity to start work on assignments as needed. SWCA will ensure that deliverables are received on time by making sure that staff is available at any time to complete tasks, training additional staff as necessary, and through regular communication with ASLD staff.

SWCA will ensure that at least one member of the project team, typically the SWCA PM, is always available to monitor emails and receive task assignments under this contract. The SWCA PM will follow up with team leads and other staff to relay project information and task assignments, schedule a site visit (if necessary), and ensure that tasks are completed in the ASLD-required timeframe. All tasks under this on-call contract will be entered into and tracked in a project file by the SWCA PM. The PM will be responsible for ensuring that all deliverables are completed within the required timeframes and that ASLD is notified of any issues affecting the delivery date or the overall projects.

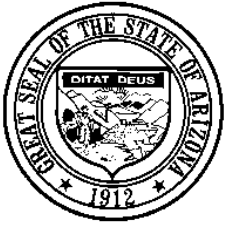
4. List standard turn-around time for design requests/changes, RFI's, submittals, and differing situations that may impact time constraints.

SWCA is proposing to provide environmental services but often accommodates changes in project design, requests for information, and other requests from clients during the planning process. Typical turn-around time for submittals for environmental due diligence tasks is generally 1 to 2 months but varies depending on the environmental scope (e.g., one task or multiple tasks), the complexity of the project, and the presence or absence of sensitive resources. When changes to project design occur, SWCA often can provide revised documents and/or requested information in less than 1 week, particularly if no additional fieldwork is needed.

5. Detail your firm's quality control process related to specific plans, specifications and construction documents.

SWCA's internal QA/QC procedures are a key part of any project and are designed to provide ASLD with the highest quality service and deliverables by ensuring that our projects are managed efficiently; our fieldwork is completed correctly; and work products are technically accurate, defensible, and comprehensive for each required task. QA/QC starts at the beginning of each project with a clear understanding of the scope of work and related requirements and carries through the project to data collection and production of deliverables.

Before project work begins, Ms. Casteel will provide staff with instructions regarding the scope of work activities and meeting applicable requirements and then will oversee fieldwork, data analysis, and document preparation efforts. SWCA provides technical editing and graphics services to ensure that all documents are accurate, consistent, logical, and well presented. We excel at preparing documents for audiences ranging from technical experts to the general public.



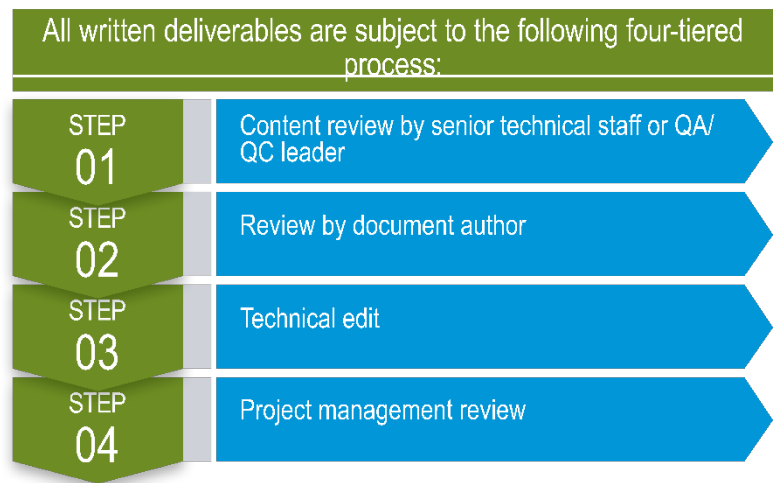
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All deliverables, including reports, will go through our QA/QC process, including a review by the SWCA PM before submittal to ensure that all deliverables are of the highest quality. ASLD comments on the draft deliverables will be incorporated into the final deliverables for ASLD records and/or agency submittal when applicable. SWCA administrative staff members will produce the final report, ensuring high-quality reproduction, consistency, cost-effectiveness, electronic archival storage, and proper transmittal to ASLD.

When an author has drafted a resource section or specialist report, the draft will proceed to content review—the first step of the document QA/QC process. The content review will focus on scientific rigor to ensure the document satisfies required regulations and/or meets applicable standards and guidelines. In addition, the review will focus on document organization and flow, the logic of any arguments or conclusions, and the internal consistency of the discussion. Content review will be conducted by an expert with knowledge of the project and the technical material covered in the deliverable. Documents will not be submitted for content review until they are complete, with all necessary data, analysis, and references.



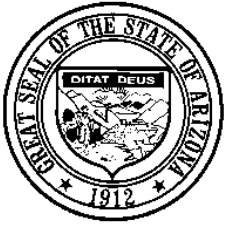
The second step, review by the document author, will focus on incorporating changes and addressing comments based on content review. This ensures that changes are consistent with the author’s understanding of the resource and impacts and that the document is written in one voice. The second step also provides an opportunity for the author to clarify language as necessary to create optimal readability and the most rigorous analysis.

Technical editing—the third step—will focus on clarity of writing, technical logic, grammar, spelling, format, adherence to project writing guidelines, and editorial consistency. An SWCA technical editor will conduct this review using the appropriate style guide and will collaborate with authors to make necessary changes in reviewed documents.

Focusing primarily on the overall accuracy of the document and its relevance to the project, the fourth step in the process is project management review. Other components of project management review, to be completed in conjunction with project QA/QC leader reviews, will include the appropriateness of tone, clarity of communication, and completion of project requirements.

6. Does your firm have Procore Project Management Software usage experience?

No; as an environmental firm, we rely on other project management software such as SmartSheet and Microsoft Project.



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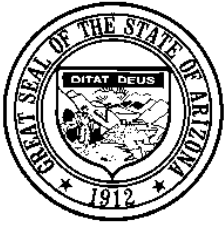
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7. Does your firm use dimension on the construction drawings? Explain your firm's design plans between scaling and dimensioning on Design drawings.

SWCA proposes to provide environmental services; therefore, this question does not apply. However, our GIS staff routinely works with engineers to provide data in engineering scales and dimensions to accurately display locations of sensitive resources.

8. Are you able to put the pictures on the drawings with notes regarding tie-in points and locations?

SWCA proposes to provide environmental services; therefore, this question does not apply. However, our GIS staff routinely works with engineers to provide data in engineering scales and dimensions to accurately display locations of sensitive resources.



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Attachment 3-B: Key Personnel Proposal

Key Personnel LIST

OFFEROR NAME: SWCA Environmental Consultants

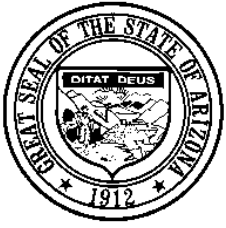
Instructions: Answer all questions thoroughly in the spaces provided. This form shall be completed for each key personnel involved in performance of this contract. A separate resume (maximum one (1) page) may be included using the second page of this Attachment. The resume is to be used to supply relevant information pertaining to the performance of this contract and is to be supplemental to the information below and is not to be used to replace this form.

VICTORIA CASTEEL

Employee Name

Current Information

| | |
|---|---|
| Position Currently Held in Firm: Project Environmental Planner | |
| Years With Firm: 3 | Years in Current Position: 3 |
| Role Under this Contract: PM | |
| Years' Experience in Role Under This Contract: 17 | Hours per Week of Employee's Time Dedicated to This Contract: 12 |
| Will the key personnel be assigned to work on this contract exclusively? If not, indicate the percentage of the key personnel's time that will be dedicated to this contract. No; 30% of Ms. Casteel's time will be dedicated to this on call, as needed. | |
| Identify the primary function(s) of the key personnel in performing the services required by this solicitation. Ms. Casteel will serve as the on-call PM and as CWA Section 404 subject matter expert on select projects as needed. She will be responsible for providing client support, overseeing field crews, and ensuring that accurate and high-quality deliverables are provided on time and under budget. | |
| Describe the key personnel's experience in performing the services required by this contract. Ms. Casteel has more than 17 years of experience in project management, environmental planning, and water resources evaluations and permitting support. She provides guidance, agency coordination, and technical expertise to ensure environmental compliance for her clients on various projects throughout the state of Arizona. She regularly coordinates with agencies, including the USACE, to attain JDs and permit approvals for agency and private project applicants for a wide range of transportation, infrastructure, mining, commercial, and residential projects. Ms. Casteel has completed various state and federal environmental clearance documents and obtained permit approvals for a diverse group of clients, including Arizona Public Services, Pinal County, the Arizona DOT, the BLM, Salt River Project, numerous city governments, and a variety of private developers. She has managed projects throughout the state of Arizona, including many within Pinal County and the city of Casa Grande. | |
| List the key personnel's job-related training and education. B.S. Environmental Water and Resource Economics, University of Arizona College of Agriculture & Life Science Project Management Bootcamp USACE Wetland Delineation Training Program Certification Qualified Preparer of Stormwater Pollution Prevention Plans (QPSWPPP) Qualified Compliance Inspector of Stormwater (QCIS) SWCA Annual Safety Core and Field Safety Trainings Basic First Aid and Heartsaver AED Training | |



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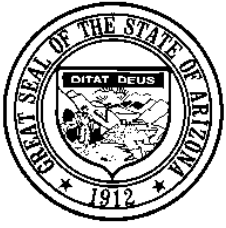
OFFEROR NAME: SWCA Environmental Consultants

STEVE O'BRIEN

Employee Name

Current Information

| | |
|--|---|
| Position Currently Held in Firm: PM | |
| Years With Firm: 15 | Years in Current Position: 14 |
| Role Under this Contract: Phase I ESA Lead | |
| Years' Experience in Role Under This Contract: 23 | Hours per Week of Employee's Time Dedicated to This Contract: 10 |
| Will the key personnel be assigned to work on this contract exclusively? If not, indicate the percentage of the key personnel's time that will be dedicated to this contract. No; 25% of Mr. O'Brien's time will be dedicated to this on call, as needed. | |
| Identify the primary function(s) of the key personnel in performing the services required by this solicitation. Mr. O'Brien would serve as the Phase I ESA Lead, providing subject matter expertise and team oversight for Phase I ESA tasks, and he may serve as a PM for SWCA, as needed. He will ensure compliance with ASTM International standards, coordinate the contract scope and PMs, and ensure the production of high-quality deliverables. | |
| Describe the key personnel's experience in performing the services required by this contract. Mr. O'Brien is a senior environmental specialist with 23 years of experience in environmental consulting and technical writing, including 20 years of extensive experience performing Phase I ESAs. He leads SWCA's nationwide Phase I ESA specialists work group and is an integral part of SWCA's NEPA team. He has completed numerous ESAs in a variety of locations, from uninhabited deserts and mountains to dense metropolitan settings in 29 states and Guam and from tiny parcels to 800-square-mile assemblages, including numerous wind and solar energy sites, oil and gas sites, EPA superfund sites, and Department of Defense sites. He teaches SWCA staff to conduct ESAs, with a focus on field and reporting techniques, and has been an expert witness for ESA cases. | |
| List the key personnel's job-related training and education. B.A. Biology / Chemistry, Gettysburg College Hazardous Materials Initial Site Assessment; Texas DOT; 2014, HAZWOPER 8 Hour Annual Refresher Course; OSHA Campus 360training Corporate Headquarters; 2009 Environmental Site Assessments for Commercial Real Estate; ASTM; 2000 401 Express Permitting; North Carolina Department of Water Quality; 2003 Stream And Surface Water Identification for Riparian Applications; North Carolina Department of Water Quality; 2003 Wetland Assessment and Delineation; North Carolina State University; 2004 Water Supply Watershed Protection Seminar North Carolina; WSWPP; 2001 U.S. EPA Watershed Training Certificate; EPA; 2006 Applied Fluvial Morphology (Rosgen Level I); Dave Rosgen; 2006 Hazardous Waste Operations and Emergency Response (HAZWOPER) 40-Hr; 1996–Present River Morphology and Applications (Rosgen Level II); Dave Rosgen; 2006 Project Management Bootcamp; PSMJ Resources, Inc.; 2009 | |



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OFFEROR NAME: SWCA Environmental Consultants

ELEANOR GLADDING

Employee Name

Current Information

| | |
|---|---|
| Position Currently Held in Firm: Senior Biologist | |
| Years With Firm: 22 | Years in Current Position: 15 |
| Role Under this Contract: Biology Lead | |
| Years' Experience in Role Under This Contract: 32 | Hours per Week of Employee's Time Dedicated to This Contract: 12 |
| Will the key personnel be assigned to work on this contract exclusively? If not, indicate the percentage of the key personnel's time that will be dedicated to this contract. No; 30% of Ms. Gladding's time will be dedicated to this on call, as needed. | |
| Identify the primary function(s) of the key personnel in performing the services required by this solicitation. Ms. Gladding will serve as the Biology Lead, providing subject matter expertise and team oversight for biological resources tasks, and she may serve as a PM for SWCA, as needed. She will ensure compliance with all applicable biological resources laws and regulations, coordinate with the contract and PMs, and ensure the production of high-quality deliverables. | |
| Describe the key personnel's experience in performing the services required by this contract. Ms. Gladding brings more than 32 years of experience as a herpetologist and ecologist. Her areas of expertise include endangered species habitat studies, revegetation planning, species-specific surveys, noxious weed issues, and wildlife-habitat relationships. She is adept at identifying plants and animals, their habitat, and signs of presence. She is also skilled at writing technical and non-technical reports and conducting the extensive literature research that accompanies writing at the professional level. Her duties as a biologist include study design, field studies and special-status species surveys, and report writing and editing. | |
| List the key personnel's job-related training and education. B.S. Biology, E: Ecology; Berry College; Rome, Georgia M.S. Biology, E: Herpetology; University of Central Florida, Orlando Trained Airport Wildlife Biologist Project Management Bootcamp; PSMJ Resources, Inc.; 2005 Biological Assessment Workshop; U.S. Fish and Wildlife Service; 2004 Cactus Ferruginous Pygmy-Owl Training; 2000 and 2003 Chiricahua Leopard Frog Survey Training; U.S. Fish and Wildlife Service; 2014 and 2018 Introductory Fire Training (S190) for Prescribed Burning and Wildfires; 1994 Invasive Plant Inventory and Survey Methods for Land Managers Web Seminar Series; 2009 Southwestern Noxious/Invasive Weed Short Course; 2007 Southwestern Willow Flycatcher Survey Training; 2001 | |



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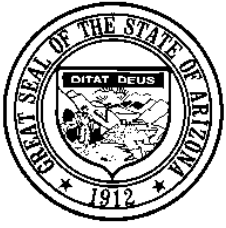
OFFEROR NAME: SWCA Environmental Consultants

RUSSELL WALDRON

Employee Name

Current Information

| | |
|--|---|
| Position Currently Held in Firm: Senior Natural Resources Team Lead | |
| Years With Firm: 29 | Years in Current Position: 10 |
| Role Under this Contract: CWA Section 404 Lead | |
| Years' Experience in Role Under This Contract: 29 | Hours per Week of Employee's Time Dedicated to This Contract: 12 |
| Will the key personnel be assigned to work on this contract exclusively? If not, indicate the percentage of the key personnel's time that will be dedicated to this contract. No; 30% of Mr. Waldron's time will be dedicated to this on call, as needed. | |
| Identify the primary function(s) of the key personnel in performing the services required by this solicitation. Mr. Waldron will serve as the CWA Section 404 Lead, providing subject matter expertise and team oversight for CWA Section 404 tasks. He may also serve as a PM for SWCA as needed. He will be responsible for remaining up to date on CWA regulatory guidance and applicable laws, regulations, and permit requirements; overseeing research content; and ensuring reports meet or exceed professional standards. | |
| Describe the key personnel's experience in performing the services required by this contract. Mr. Waldron is a scientist and senior natural resources team lead in SWCA's Tucson, Arizona, office. He has more than 29 years of experience in biological resources consulting, with an emphasis on federal, state, and local environmental regulations compliance. He has completed and overseen numerous native plant inventories and jurisdictional delineations of WOTUS on State Land parcels for ASLD review. Mr. Waldron has developed an understanding of the requirements of the ASLD for utility right-of-way leases, solar lease sales, and other land sales during his long tenure at SWCA. He has extensive experience with the Arizona Department of Agriculture, the BLM, and other federal agency environmental regulations and policies, as well as CWA and Endangered Species Act compliance. | |
| List the key personnel's job-related training and education. B.S. Business Administration; University of Arizona, Tucson; 1986 B.S. Renewable Natural Resources; University of Arizona, Tucson; 1994 FERC Environmental Compliance and Regulatory Overview and Guidance Seminar; Federal Energy Regulatory Commission; 2008 Mine Safety and Health Administration Certification; Arizona State Mining Inspector and McCarren Enterprises; 2007–2014 USACE Wetland Delineation and Management Program; Richard Chinn Environmental Training, Inc.; 2006 Project Management Bootcamp; PSMJ Resources, Inc.; 2002 | |



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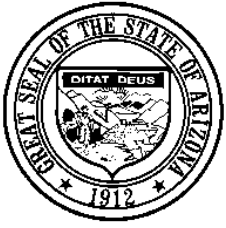
OFFEROR NAME: SWCA Environmental Consultants

MICHAEL STANDART

Employee Name

Current Information

| | |
|---|--|
| Position Currently Held in Firm: Geospatial Sciences Team Lead | |
| Years With Firm: 5 | Years in Current Position: >1 |
| Role Under this Contract: GIS Lead | |
| Years' Experience in Role Under This Contract: 11 | Hours per Week of Employee's Time Dedicated to This Contract: 6 |
| Will the key personnel be assigned to work on this contract exclusively? If not, indicate the percentage of the key personnel's time that will be dedicated to this contract. No; 15% of Mr. Standart's time will be dedicated to this on call, as needed. | |
| Identify the primary function(s) of the key personnel in performing the services required by this solicitation. Mr. Standart will serve as the GIS Lead, providing support for project-specific data analysis and mapping needs. | |
| Describe the key personnel's experience in performing the services required by this contract. Mr. Standart is a GIS application specialist who provides advanced GIS support for SWCA offices across the nation. His GIS expertise includes automation with python programming, advanced cartographic design, model builder, and online GIS solutions. With a strong background in automation and cartography. Mr. Standart provides support by facilitating more efficient workflows with automation, effective cartographic products, and better ways to access data online. He has created mapping products and spatial analysis for a variety of projects, including mines, transmission lines, community developments, solar/wind farms, and private developments. | |
| List the key personnel's job-related training and education. B.A. Geography; Arizona State University Geographic Information Science Certificate; Arizona State University ESRI Desktop 9.0; City of Mesa Planning Department; 2012 | |



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1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Key Personnel Resumes

(Insert resumes here)

VICTORIA CASTEEL, B.S., CONTRACT MANAGER / PROJECT MANAGER

Victoria Casteel serves as a project manager, environmental planner, and Clean Water Act (CWA) specialist in SWCA Environmental Consultants' (SWCA's) West region. She has over 17 years of experience in environmental and water resources, with a specialty in CWA compliance. Victoria provides guidance, agency coordination, and technical expertise to ensure environmental compliance for her clients for a wide range of project sites throughout the state of Arizona. She is proactive and responsive to her clients' needs while preparing a variety of documents, such as CWA Section 404 jurisdictional delineations, Nationwide Permit (NWP) and Individual Permit applications, Section 401 Water Quality Certification applications, Section 402 Stormwater Pollution Prevention Plans (SWPPPs), National Environmental Policy Act (NEPA) documentation, and decision files/administrative records.

YEARS OF EXPERIENCE

17

EXPERTISE

Environmental project management

Water resources/CWA compliance

Environmental planning/permitting

NEPA compliance

EDUCATION

B.S., Environmental Water and Resource Economics; University of Arizona College of Agriculture & Life Science; 2005

Graduate coursework, Donald Bren School of Environmental Science and Management; University of California, Santa Barbara; 2005

REGISTRATIONS / CERTIFICATIONS

Qualified Preparer of SWPPPs/
Qualified Compliance Inspector of
Stormwater; 2022

Certified Wetland Delineator; USACE;
2009

TRAINING

Project Management Bootcamp

Basic First Aid and Heartsaver AED
Training, American Red Cross; 2022

Annual Safety Core and Field Safety
Trainings, SWCA; 2023

SELECTED PROJECT EXPERIENCE

Shadow Canyon; Forestar (USA) Real Estate Group Inc.; Buckeye, Maricopa County, Arizona. This residential development project involved private and Arizona State Trust lands. SWCA completed a biological evaluation, native plant inventory, cultural resources survey and report, CWA Section 404 jurisdictional delineation (JD) request, and NWP preconstruction notification. *Role: Project manager and water resources specialist. Served as the project manager, managed field staff, and prepared the waters of the U.S. (WOTUS) memorandum, JD request, and NWP preconstruction notification in compliance with U.S. Army Corps of Engineers (USACE) guidance. Coordinated with the Arizona State Land Department regarding their review of the JD and issuance of the agent authorization letter and coordinated with the USACE to obtain the preliminary JD and NWP verification for the anticipated project impacts.*

Central Arizona Project (CAP) Trail Environmental Assessment; Pinal County Open Space and Trails Department; Pinal County, Arizona. SWCA supported Pinal County with their proposed development of 39.2 miles of non-motorized trail as a segment of the CAP Trail. The project includes construction and operation of a non-motorized, multi-use recreational trail and trailheads within Pinal County. The project is located on federal, Arizona State Trust, and county-owned lands adjacent to the CAP. SWCA supported the NEPA process and completed biological, water, and cultural resource surveys and reporting for the federal and state lands. *Role: Water resources specialist. Prepared the WOTUS memorandum in compliance with USACE guidance.*

Confidential Solar Energy Facility; Confidential Client; Coconino County, Arizona. CONFIDENTIAL. *Role: Water resources specialist. Conducted a field survey for potential WOTUS on more than 9,000 acres and prepared an aquatic resources memorandum. The survey area was in an undeveloped area northwest of Flagstaff and included numerous ephemeral swales, but no potentially jurisdictional WOTUS were identified.*

Water Infrastructure Finance Authority of Arizona (WIFA) Town of Queen Creek Environmental Information Document (EID); WIFA; Queen Creek, Maricopa County, Arizona. SWCA provided the Town of Queen Creek with an EID and completed associated environmental studies in support of its application for federal and state funding sources. *Role: Water resources specialist. Completed the water resources review and summary for the EID, including a review of available data on surface and groundwater quantity and quality.*

STEVE O'BRIEN, B.A., PHASE I ENVIRONMENTAL SITE ASSESSMENT LEAD

Steve O'Brien is an environmental professional in SWCA Environmental Consultants' (SWCA's) Phoenix, Arizona, office. He has 27 years of experience in environmental consulting and technical writing, including 23 years of extensive experience performing Phase I environmental site assessments (ESAs) and is an integral part of SWCA's National Environmental Policy Act (NEPA) team. He has conducted numerous ESAs in a variety of locations, from uninhabited deserts and mountains to dense metropolitan settings in 42 states and Guam, from tiny single parcels to 900-square-mile assemblages, including many dozens of large wind and solar sites in 32 states. His projects also include oil and gas fields, reclaimed coal mines and landfills, Superfund sites, and Department of Defense sites. Steve's specialties include using ASTM International Standard 2247-16 for large-scale projects, performing Federal Aviation Administration (FAA)–Standard ESAs for airport projects, and applying the principles of ESAs to environmental baseline surveys (EBSs) for Department of Defense sites and classification of environmental condition of property area types. He mentors Phase I ESA field and reporting staff and has taught classroom and field sessions. Steve is experienced in soil mapping, wetland delineations, habitat assessments, permitting, protected species, and stream morphology assessments. He also has extensive plant, soil, and hydrology fieldwork experience in locations from coastal marshes to deserts to sites high in the Rocky Mountains.

YEARS OF EXPERIENCE

27

EXPERTISE

Large-scale Phase I ESAs (2247-16)
 Commercial Phase I ESAs (1527-21)
 Hazardous Waste Operations and
 Emergency Response (HAZWOPER)
 Wetland delineation and hydric soils
 Clean Water Act Section 404/401
 permitting

EDUCATION

B.A., Biology and Chemistry; Gettysburg
 College, Gettysburg, Pennsylvania;
 1994

REGISTRATIONS / CERTIFICATIONS

Environmental Professional, per 40
 Code of Federal Regulations 312.10(b);
 Environmental Protection Agency

SELECTED PROJECT EXPERIENCE

150 Acres of Arizona State Land Department (ASLD) Land Along Lake Havasu; Desert Land Group; Mohave County, Arizona. SWCA completed a Phase I ESA in support of ASLD Application No. 53-123046150 for acres of land along the eastern shore of Lake Havasu (Colorado River), southwest of Lake Havasu City. *Role: Environmental Professional and Phase I ESA project manager. Oversaw field crew and coordination, conducted research, authored reports, conducted senior technical review, and signed the report as the Environmental Professional.*

Buckeye Municipal Airport; Coffman Associates, Inc.; Buckeye, Maricopa County, Arizona. SWCA conducted biological and cultural resources studies, a jurisdictional waters delineation, and a Phase I ESA. The project was completed as required by the FAA and NEPA regulations. *Role: Environmental Professional and Phase I ESA project manager. Oversaw field crew and coordination, conducted research, authored reports, conducted senior technical review, and signed the report as the Environmental Professional.*

Hughes Access Road Relocation Environmental Assessment (EA) and Phase I ESA Update; Pima County Department of Transportation; Pima County, Arizona. SWCA recently completed the environmental clearance for a critically important road relocation project in Pima County on an expedited schedule. Multiple agencies were involved, including the Pima County Department of Environmental Quality, Tucson Airport Authority, and FAA. Project scope included compliance with Section 7 of the Endangered Species Act, preparation of a biological assessment, and assisting with formal consultation with the U.S. Fish and Wildlife Service; a preliminary jurisdictional determination of waters of the U.S.; a Phase I ESA; a cultural resources evaluation and

survey; and an EA that met FAA guidelines. *Role: Environmental Professional. Managed Phase I ESA, including field crew training and oversight, research, reporting, and signing the report as the Environmental Professional.*

Bullhead City (BHC) Airport Site; Legacy Commercial Real Estate, LLC; Bullhead City, Mohave County, Arizona. SWCA was retained to conduct a Phase I ESA for approximately 98 acres of ASLD land adjoining the west of BHC Airport. SWCA found the property previously held an airstrip and also evaluated historical fuel storage and leaking tanks at the upgradient BHC in relation to the subject property. *Role: Environmental Professional and Phase I ESA project manager. Oversaw field crew and coordination, conducted research, authored reports, conducted senior technical review, and signed the report as the Environmental Professional.*

ELEANOR GLADDING, M.S., BIOLOGY LEAD

Eleanor Gladding is a senior biologist and project manager in SWCA Environmental Consultants' (SWCA's) Tucson, Arizona, office. As a herpetologist and ecologist, her areas of expertise include endangered species habitat studies, revegetation planning, species-specific surveys, noxious weed issues, and wildlife-habitat relationships. She is adept at identifying plants and animals, their habitat, and signs of presence. She is also skilled at writing technical and non-technical reports and conducting the extensive literature research that accompanies writing at the professional level. Her duties as a biologist include study design, field studies and special-status species surveys, and report writing and editing. Eleanor will provide subject matter expert review of the reports prepared for biological services. She has extensive experience in southern Arizona biota with an emphasis on the Sonoran desert tortoise, Tucson shovel-nosed snake, wildlife connectivity, and noxious weeds.

YEARS OF EXPERIENCE

32

EXPERTISE

Endangered Species Act – field surveys, habitat evaluations, consultations, and biological evaluations/assessments

CWA – habitat mitigation planning and monitoring

Vegetation studies, habitat assessments, and wildlife linkages assessments

EDUCATION

M.S., Biology, e: Herpetology; University of Central Florida, Orlando; 1998

B.S., Biology, e: Ecology; Berry College; Rome, Georgia; 1994

SELECTED PROJECT EXPERIENCE

Pinal County On-Call Archaeological and Environmental Services; Pinal County, Arizona; Pinal County. SWCA has completed jurisdictional waters delineations and Section 404 Nationwide Permits for more than 40 proposed roadway improvement projects. In response to a special request, SWCA also presented a CWA workshop to Pinal County Engineering Department to enable an understanding of project constraints and enable better planning during the project formulation phase. Other services SWCA conducts include archaeological and biological surveys, construction monitoring, Phase I environmental site assessments, and feasibility studies. *Role: Senior Biologist. Conducted biological compliance tasks.*

Glen Canyon National Recreation Area Integrated Pest Management Plan / Environmental Assessment; National Park Service; Coconino County, Arizona. In July 2006, the National Park Service's (NPS's) Glen Canyon National Recreation Area (NRA) contracted with SWCA to develop an Integrated Pest Management Plan (IPMP) for the Glen Canyon NRA and Rainbow Bridge National Monument in northern Arizona and southern Utah. The IPMP focused on the identification and treatment options for a wide variety of terrestrial and aquatic pest species, as well as exotic (invasive) plants and animals throughout the NRA. The IPMP was developed to provide a practical management guide and decision-making tool for all NPS employees, concessionaires, contractors, permittees, licensees, and visitors. An environmental assessment (EA) under the National Environmental Policy Act (NEPA) was developed concurrently with

the IPMP, which evaluated two alternatives: a No-Action Alternative and a Proposed Action Alternative to implement an IPMP. *Role: Biologist. Prepared the IPMP and biological-related portions of the EA.*

Hughes Road Realignment Environmental Services; Pima County Department of Transportation; Pima County, Arizona. SWCA recently completed the environmental clearance for a critically important road relocation project in Pima County on an expedited schedule. Multiple agencies were involved, including the Pima County Department of Environmental Quality, Tucson Airport Authority, and Federal Aviation Administration (FAA). Project scope included compliance with Section 7 of the Endangered Species Act, preparation of a biological assessment, and assisting with formal consultation with the U.S. Fish and Wildlife Service; a preliminary jurisdictional determination of waters of the U.S.; a Phase I environmental site assessment; a cultural resources evaluation and survey; and an EA that met FAA guidelines. A Finding of No Significant Impact was signed within 1 year of the FAA determining that an EA would be required for the project. *Role: Senior scientist. Provided senior technical review of the biological reporting.*

PCDOT Mt. Lemmon Highway Culvert Lining; Stantec, Inc.; Tucson, Pima County, Arizona. SWCA prepared an Arizona Department of Transportation (ADOT) Categorical Exclusion, biological evaluation (BE), and geotechnical clearance for biology for a retention wall repair at milepost 18 on the Mt. Lemmon Highway. For the culverts, SWCA prepared an Urban Project BE form for this ADOT local government project (federal highway funds administered by ADOT). Also, SWCA prepared a BE, including Mexican spotted owl and northern goshawk surveys, and a categorical exclusion for a 3.3-acre maintenance yard rebuild project on U.S. Forest Service lands. *Role: Senior biologist. Provided senior technical review of the biological reporting.*

RUSSELL C. WALDRON, B.S., CLEAN WATER ACT 404 LEAD

Russell Waldron is a scientist and senior natural resources team lead in SWCA Environmental Consultants' (SWCA's) Tucson, Arizona, office with more than 29 years of experience in biological resources consulting, with an emphasis on environmental regulations compliance for federal, state, and local laws throughout Arizona. He has completed and overseen numerous native plant inventories and jurisdictional delineations of waters of the US (WOTUS) on state land parcels for Arizona State Land Department (ASLD) review. Russell has developed an understanding of the requirements of the ASLD for utility right-of-way leases, solar lease sales, and other land sales through his long tenure as SWCA. He has extensive experience with the Arizona Department of Agriculture's (ADA's), the Bureau of Land Management's (BLM's), and other federal agencies' environmental regulations and policies, as well as Clean Water Act (CWA) and Endangered Species Act (ESA) compliance. His responsibilities have included preparing environmental reports for federal and state agencies on behalf of land-based solar and a variety of other land development projects, including conducting jurisdictional waters and wetlands delineations for determining potential WOTUS status, reporting for U.S. Army Corps of Engineers (USACE) CWA Section 404 permit applications, conducting biological field studies of special interest species, preparing biological evaluations and biological assessments for ESA compliance, preparing native plant ordinance compliance studies, and preparing environmental assessments and biological sections of environmental impact statements for National Environmental Policy Act (NEPA) compliance.

YEARS OF EXPERIENCE

29+

EXPERTISE

CWA Section 404 compliance and jurisdictional waters and wetlands delineations

Federal Energy Regulatory Commission (FERC), BLM NEPA, and ESA compliance

Threatened and endangered species surveys

Native plant inventory, appraisals, and plans

EDUCATION

B.S., Renewable Natural Resources; University of Arizona, Tucson; 1994

B.S., Business Administration; University of Arizona, Tucson; 1986

REGISTRATIONS / CERTIFICATIONS

Certified Arborist; 1999–present

TRAINING

FERC Environmental Review and Compliance for Natural Gas Facilities; 2016

USACE Wetland Delineation and Management Program, Richard Chinn Environmental Training, Inc.; 2006

SELECTED PROJECT EXPERIENCE

Yellow Bell Solar Project Environmental Studies; RWE Solar Development, LLC; Maricopa County, Arizona. SWCA's completed environmental services in support of a solar lease on behalf of RWE Solar Development, LLC, for ASLD requirements for a project area near Gila Bend, Arizona. Tasks included completion of native plant inventories for use in plant valuation on Arizona State Trust lands, completing cultural resources surveys and report preparation, completing a Notice of Intent to Clear Lands for the ADA, and completing a CWA Section 404 approved jurisdictional determination for washes on Arizona State Trust lands. *Role: Senior CWA specialist. Completed the preliminary jurisdictional waters and wetlands report and oversaw native plant inventory and reporting.*

Babbitt Ranch Energy Center Environmental Studies; Confidential Client; Coconino County, Arizona. SWCA's completed environmental services in support of a solar project partially located on ASLD-administered lands. Tasks included completion of native plant inventories for use in plant valuation on Arizona State Trust lands, completing cultural resources surveys and report preparation, completing a Notice of Intent to Clear Lands for the ADA, and completing a CWA Section 404 approved jurisdictional determination for washes on Arizona State Trust lands. *Role: Senior CWA specialist. Completed the preliminary jurisdictional waters and wetlands report and oversaw native plant inventory and reporting.*

Sierrita Pipeline; Sierrita Pipeline, LLC; Pima County, Arizona. SWCA provided environmental services for a 61-mile-long natural gas pipeline right-of-way (ROW) application to ASLD in southern Arizona. Tasks included completion of native plant inventories for use in plant valuation on Arizona State Trust lands, completing cultural resources surveys within the ROW, completing a Notice of Intent to Clear Lands for the ADA, and completing a CWA Section 404 preliminary jurisdictional determination and permitting for over 200 wash crossings on Arizona State Trust lands. *Role: Senior CWA specialist and environmental project manager. Coordinated survey crews, communicated with client and agency personnel, and authored and reviewed reports prepared for the project.*

MICHAEL STANDART, B.A., GIS LEAD

Michael Standart is a geographic information system (GIS) application specialist providing advanced GIS support nationwide throughout SWCA Environmental Consultants (SWCA). His GIS expertise includes automation with Python programming, advanced cartographic design, model builder, and online GIS solutions. With a strong background in automation and cartography, Michael provides support by facilitating more efficient workflows with automation, effective cartographic products, and better ways to access data online. He has created mapping products and spatial analysis for a variety of projects, including mines, transmission lines, community developments, solar/wind farms, and private developments.

Michael leverages his knowledge of GIS to meet the demanding needs of the resource specialists throughout SWCA. He has developed tools, automated processes, and online resources that increase efficiencies and include the latest technology GIS has to offer. His work has included managing the GIS of large-scale projects such as the Resolution Copper Mine draft environmental impact statement, L035 transmission line, and large-scale commercial solar farms.

YEARS OF EXPERIENCE

11

EXPERTISE

GIS

Esri GIS mapping software and programming (ArcGIS, ArcInfo, etc.)

GIS modeling/spatial analysis

EDUCATION

B.A., Geography; Arizona State University, Tempe; 2012

Certification, Geographic Information Science; Arizona State University, Tempe; 2012

TRAINING

Esri Desktop 9.0, City of Mesa, Arizona, Planning Department; 2012

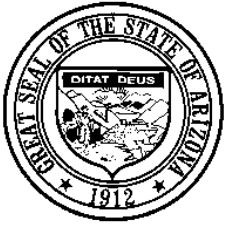
SELECTED PROJECT EXPERIENCE

CWA L030 Cultural Resources Survey; Southern California Edison Company; Inyo and San Bernardino Counties, California. SWCA conducted the cultural resources work for this 360-mile-long transmission line project that traverses the Owens Valley and Mojave Desert, through three counties, four Bureau of Land Management (BLM) Field Office–managed lands, and multiple military installations. SWCA and its subconsultants prepared technical studies in support of the proponent’s environmental assessment (EA), which included the archaeological, historic architectural, and paleontological resources assessment for the project. SWCA conducted agency coordination, authored a work plan and an ethnographic literature search document, conducted a Class III intensive pedestrian inventory, and is currently preparing the inventory report. Over 1,000 archaeological resources and 450 built environment resources were updated or newly recorded during the inventory. *Role: GIS specialist.*

Pinal Airpark RPZ and Improvements Categorical Exclusion; Dibble; Pinal County, Arizona. SWCA conducted a biological resources study, jurisdictional delineation, and cultural resources investigations to support the National Environmental Policy Act (NEPA) process for two proposed projects (runway improvements and an engine testing facility) at Pinal Airpark. In addition, the cultural resources investigations included a historic property inventory and an archaeological survey for the entire Pinal Airpark property. *Role: GIS specialist.*

Vistancia Lone Mountain Water Line; Vistancia South, LLC; Peoria, Maricopa County, Arizona. SWCA prepared an EA, plan of development, and supporting Section 106 consultation and data recovery, biological evaluation, and Section 404 permitting for a 3-mile-long buried waterline through public lands managed by BLM, Arizona State Land Department, and private lands for the City of Peoria. The project brought much-needed drinking water supplies to Peoria’s underserved and growing residential development areas. *Role: GIS specialist.*

APS Komatke to Willis 69-kV Preconstruction Environmental Services; Arizona Public Service Company; Maricopa County, Arizona. SWCA provided preconstruction services for the new transmission line construction. *Role: GIS specialist. Produced map figures and any calculations requested.*



**Request for Qualifications
Attachments & Response Forms**

Solicitation No. **BPM005468**

Description:
**ON-CALL ALTA LAND SURVEYING &
ENVIRONMENTAL SERVICES**

Arizona Department of
Administration
General Services Division
1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Attachment 3-C: Boycott of Israel Disclosure

Please note that if any of the following apply to this Solicitation, Contract, or Contractor, then the Offeror shall select the "Exempt Solicitation, Contract, or Contractor" option below:

- The Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. §35-393.01, public entities are prohibited from entering into contracts "unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel."

Under A.R.S. §35-393:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) Based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
- ...
5. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

The certification below does not include boycotts prohibited by 50 United States Code Section 4842 or a regulation issued pursuant to that section. *See* A.R.S. §35-393.03.

In compliance with A.R.S. §§35-393 *et seq.*, all offerors must select one of the following:

- The Company submitting this Offer **does not** participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. §§35-393 *et seq.* I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.
- The Company submitting this Offer **does** participate in a boycott of Israel as described in A.R.S. §§35-393 *et seq.*
- Exempt Solicitation, Contract, or Contractor.**

Indicate which of the following statements applies to this Contract:

- Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; and/or
- Contractor is a non-profit organization.

SWCA Environmental Consultants
Company Name

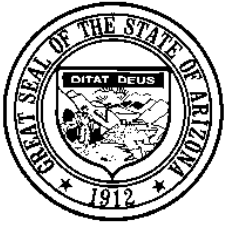
20 East Thomas Road, Suite 1700
Address

Phoenix Arizona 85012
City State Zip

Signature of Person Authorized to Sign

Jana Sterling
Printed Name

Vice President, Southwest
Title



**Request for Qualifications
Attachments & Response Forms**
Solicitation No. **BPM005468**
Description:
**ON-CALL ALTA LAND SURVEYING &
ENVIRONMENTAL SERVICES**

Arizona Department of
Administration
General Services Division
1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Attachment 3-D: Forced Labor of Ethnic Uyghurs Ban

Please note that if any of the following apply to the Contractor, then the Offeror shall select the “Exempt Contractor” option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. § 35-394, written certification is required to show that the company entering into a contract with a public entity does not use the forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Under A.R.S. § 35-394:

1. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
2. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

In compliance with A.R.S. §§ 35-394 et seq., all offerors must select one of the following:

- The Company submitting this Offer **does not** use, and agrees not to use during the term of the contract, any of the following:
 - Forced labor of ethnic Uyghurs in the People’s Republic of China;
 - Any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; or
 - 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.
- The Company submitting this Offer **does** participate in use of Forced Uyghurs Labor as described in A.R.S. § 35-394.

Exempt Contractor

Indicate which of the following statements applies to the Contractor (may be more than one):

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; and/or
- Contractor is a non-profit organization.

SWCA Environmental Consultants
Company Name

Signature of person authorized to sign

20 East Thomas Road, Suite 1700
Address

Jana Sterling, Vice President, Southwest
Printed name and title

Phoenix, Arizona 85012
City, State, ZIP

jsterling@swca.com (928) 774-5500
Contact email address Contact phone number



**Request for Qualifications
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Solicitation No. **BPM005468**

Description:
**ON-CALL ALTA LAND SURVEYING &
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Arizona Department of
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General Services Division
1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Attachment 5-A: Confidential Information Designation

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recognizing there may be materials included in a solicitation response that are proprietary or a trade secret, a process is set out in A.A.C. R2-7-103 (copy attached) that will allow qualifying materials to be designated as confidential and excluded from disclosure. For purposes of this process the definition of “trade secret” will be the same as that set out in A.A.C. R2-7-101(52).

Complete this form and return it with your Offer **along with the appropriate supporting information** to assist the State in making its determination as to whether any of the materials submitted as part of your Offer should be designated confidential because the material is proprietary or a trade secret and therefore not subject to disclosure.

STATE WILL NOT CONSIDER ANY MATERIAL IN YOUR OFFER “CONFIDENTIAL” UNLESS DESIGNATED ON THIS FORM.

Check one of the following – if neither is checked, State will assume that as equivalent to “DOES NOT”:

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | This response DOES NOT contain proprietary or trade secret information. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317. |
| <input type="checkbox"/> | This response DOES contain trade secret information because it contains information that: <ol style="list-style-type: none"> 1. Is a formula, pattern, compilation, program, device, method, technique or process, AND 2. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; AND 3. Is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy. |

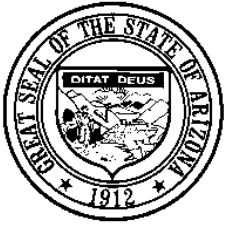
NOTE: Failure to attach an explanation may result in a determination that the information does not meet the statutory trade secret definition. All information that does not meet the definition of trade secret as defined by A.A.C. R2-7-101(52) will become public in accordance with A.A.C. R2-7-C317. State may make its own determination on materials in accordance with A.A.C. R2-7-103. If State agrees with Offeror’s designation of trade secret or confidentiality and the determination is challenged, the undersigned hereby agrees to cooperate and support the defense of the determination with all interested parties, including legal counsel or other necessary assistance.

By submitting this response, Offeror agrees that the entire Offer, including confidential, trade secret and proprietary information may be shared with an evaluation committee and technical advisors during the evaluation process. Offeror agrees to indemnify and hold State, its agents and employees, harmless from any claims or causes of action relating to State’s withholding of information based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by State in defending such an action.

SWCA Environmental Consultants

| | | |
|---------------------------------|-------|-----|
| Offeror Company Name | | |
| 20 East Thomas Road, Suite 1700 | | |
| Address | | |
| Phoenix, Arizona 85012 | | |
| City | State | Zip |

| |
|--------------------------------|
| |
| Signature of Authorized Person |
| Jana Sterling |
| Printed Name |
| Vice President, Southwest |
| Title |



**Request for Qualifications
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1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Copy of A.A.C. R2-7-103 [Confidential Information]
as was current at time of Solicitation issuance

PROVIDED FOR REFERENCE ONLY

- A. *If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.*
- B. *Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.*
- C. *Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:*
1. *The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;*
 2. *The designated information is not confidential; or*
 3. *Additional information is required before a final confidentiality determination can be made.*
- D. *If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.*
- E. *An agency chief procurement officer may release information designated as confidential under subsection (A) if:*
1. *A request for review is not received by the state procurement administrator within the time period specified in the notice; or*
 2. *The state procurement administrator, after review, makes a written determination that the designated information is not confidential.*

- - -



Request for Qualifications Attachments & Response Forms

Solicitation No. **BPM005468**

Description:

ON-CALL ALTA LAND SURVEYING & ENVIRONMENTAL SERVICES

Arizona Department of
Administration
General Services Division
1400 W Washington St., Ste. B200
Phoenix, AZ 85007

Attachment 5-B: Conformance Statements

If taking exceptions, the Attachment Supplements must be uploaded as a separate word doc. file titled “Attachment Supplement -”

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.

READ PARAGRAPH 6.8 OF THE INSTRUCTIONS TO OFFERORS BEFORE TAKING ANY EXCEPTIONS – TAKING EXCEPTIONS CAN BE GROUNDS FOR STATE REJECTING OR DOWN-GRADING YOUR OFFER IN EVALUATION.

CONFORMANCE TO THE INSTRUCTIONS TO OFFERORS

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Special Instructions to Offerors and Uniform Instructions to Offerors of the Solicitation Documents and attests that its Offer complies.
- NO – Offeror acknowledges that it has read and understands the Instructions to Offerors in the Solicitation Documents, and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment Supplement 1**.

CONFORMANCE TO SCOPE OF WORK AND PRICING

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Scope of Work Document and the Pricing Document of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understands the Scope of Work Document and the Pricing Document of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment Supplement 2**.

CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understand the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment Supplement 3**.



Request for Qualifications Attachments & Response Forms

Solicitation No. **BPM005468**

Description:

ON-CALL ALTA LAND SURVEYING & ENVIRONMENTAL SERVICES

Arizona Department of Administration
General Services Division
 1400 W Washington St., Ste. B200
 Phoenix, AZ 85007

Attachment 5-B1: Conformance Statements Supplement 1 Exceptions to Instructions

| Article / Paragraph or Exhibit Reference | Proposed Changes / Alternate Language | RFP Language (Copy and Paste from Solicitation) |
|--|--|---|
| Special Instructions to Offerors | | |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| Uniform Instructions to Offerors | | |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |

SWCA Environmental Consultants

Company Name

Jana Steily

Signature of Person Authorized to Sign



Request for Qualifications Attachments & Response Forms

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Attachment 5-B2: Conformance Statements Supplement 2 Exceptions to Scope of Work

| Article / Paragraph or Exhibit Reference | Proposed Changes / Alternate Language | RFP Language (Copy and Paste from Solicitation) |
|--|--|---|
| Scope of Work | | |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| Pricing Document | | |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |

SWCA Environmental Consultants

Company Name

Signature of Person Authorized to Sign



Request for Qualifications Attachments & Response Forms

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Attachment 5-B3: Conformance Statements Supplement 3 Exceptions to Contract Terms & Conditions

| Article/ Paragraph or Exhibit Reference | Proposed Changes / Alternate Language | RFP Language (Copy and Paste from Solicitation) |
|--|---------------------------------------|---|
| Special Terms & Conditions | | |
| x | X Exception: X Rationale: | x |
| x | X Exception: X Rationale: | x |
| x | X Exception: X Rationale: | x |
| Uniform Terms & Conditions | | |
| x | X Exception: X Rationale: | x |
| x | X Exception: X Rationale: | x |

SWCA Environmental Consultants

Company Name

Signature of Person Authorized to Sign



Solicitation Amendment I

Solicitation No.: **BPM005468**

Description:

ON-CALL ALTA LAND SURVEYING & ENVIRONMENTAL SERVICES

Amendment No.: 1

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Pursuant to the 2.0 INQUIRIES Section 2.6 Solicitation Amendments, the above referenced solicitation shall be amended as follows:

RESPONSE FORMS

REPLACED WITH: BPM005468 Amended Land Surveying & Environmental Response Forms

REQUEST FOR STATEMENTS OF QUALIFICATIONS

REPLACED WITH: BPM005468 Amended On-Call ALTA Land Surveying & Environmental Services RSOQ

STATEMENT OF WORK:

1.0 INTRODUCTION

ADD: Qualified firms may submit one or more SOQs as desired by discipline or may choose to submit a combined SOQ. Please make clear the intended discipline. Not more than 10 contracts may be awarded per discipline.

5.0 EVALUATION 5.2-B

Replaced with: Each Submitter may submit one (1) SOQ for each discipline in response to this solicitation. Material submitted should not exceed thirty (30) pages in length, instruction pages not included.

DISCUSSION FORUM QUESTION:

Q. Can we submit on a portion of the scope of work?

A: Yes, you can submit on one or more disciplines.

Acknowledgement of Amendment I

ACKNOWLEDGEMENT

ACKNOWLEDGEMENT OF SOLICITATION AMENDMENT SHALL BE DONE ELECTRONICALLY PRIOR TO OFFER DUE DATE AND TIME. All other all terms, conditions, specifications and amendments to the Solicitation remain unchanged.



Request for Qualifications Design Professional Services

Solicitation No. **BPM005468**

Description:

ON-CALL ALTA LAND SURVEYING & ENVIRONMENTAL SERVICES

Arizona Department of
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NOTICE OF REQUEST FOR QUALIFICATIONS

Pursuant to A.R.S. § 41-2579, the Arizona Department of Administration, General Services Division (the State), in cooperation with the **ARIZONA STATE LAND DEPARTMENT (ASLD)**, is seeking to establish multiple Professional Service Contracts for On-Call ALTA Land Surveying and Environmental Site Assessment services which may include Phase I & II Environmental Site Assessments, Clean Water Act (CWA) Section 404 Permitting, Preliminary Jurisdictional Determination (PJD), Approved Jurisdictional Determination (AJD), Waters of the U.S. (WOTUS) Evaluation, Biological Evaluation.

The State proposes to retain not more than ten (10) highly qualified, capable firms to act as Consulting firms for each discipline during the planning of projects for a firm fixed price. The firm(s) who participate(s) in this Request For Qualifications (RFQual) process are referred to as "Offerors" or "Engineers" or "Consultants" throughout the solicitation documents.

The focus of the work will be assisting ASLD with Surveying and Environmental service needs for managing State Trust lands.

The State reserves the right to negotiate with one or more parties and is not obligated to enter into any contract with any respondent on any terms or conditions. The designs resulting from this solicitation may be used in future projects of similar scope.

DUE DATE AND TIME: Offers will be received until 2:00 PM, MST (Arizona time), Tuesday, June 27, 2023.

PRE-SUBMITTAL MEETING: Will NOT be held.

The State makes no guarantee as to actual spend under any resultant contract.

In accordance with A.R.S. § 41-2578, request for qualifications for the Design Professional services specified, will be received by the State Procurement Office **online** through the State's e-Procurement system, APP (www.appstate.az.gov) at the date and time posted in APP. Qualifications received by the correct time and date will be opened and the name of each offeror will be publicly available. **Qualifications must be in the actual possession of the State on or prior to the time and date indicated in the Notice.**

LATE QUALIFICATIONS WILL NOT BE CONSIDERED

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION



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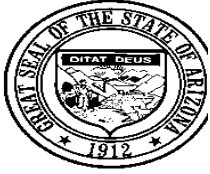
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ADDITIONAL ATTACHMENT: **TABLE A** OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS



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INSTRUCTIONS TO OFFERORS

1.0 DEFINITION OF TERMS:

As used in these Instructions, the terms listed below are defined as follows:

1.1 Accepted Standard

"Accepted Standard" means a method or technology whose performance has withstood professional scrutiny and is currently employed successfully at sites contaminated with hazardous or regulated substances.

1.2 ARAR

"ARAR" shall mean Applicable or Relevant and Appropriate Requirements. Is used to initiate identification of ARARs that may affect remedy selection.

1.3 A.R.S. TITLE 49, THE ENVIRONMENT & A.R.S. TITLE 45, WATERS

Applicable Arizona Administrative Code (AAC) rules, and the U.S. Environmental Protection Agency, Terms of Environment, lists definitions and terms associated with this contract. The definitions within this document and the Arizona Revised Statutes and appropriate rules shall provide for a first interpretation of all definitions and terms.

1.4 Attachment

"Attachment" means any item the Solicitation requires an Offeror to submit as part of the Offer.

1.5 Best and Final Offer

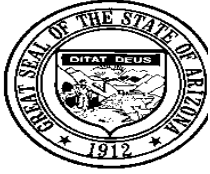
"Best and Final Offer" means a revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service, and products to be delivered.

1.6 Best Management Practices

"Best Management Practices" means a method or combination of methods that is used in the treatment; storage and disposal of a pollutant and that achieves the maximum practical cost-effective protection of public health and/or the environment.

1.7 Engineering Evaluation and Cost Analysis (EE/CA)

"Engineering Evaluation and Cost Analysis (EE/CA)" means the analysis of removal alternatives for an area in accordance with EPA guidance document, "Guidance on Conducting Non-Time-Critical Removal Actions Under Cercla" EPA 540-R- 93-057, August 1993 or as delineated in the Task Order.



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1.8 Environmental Impact Areas

“Environmental Impact Areas” means an area contaminated by a pollutant or by criminal littering, or causing an environmental nuisance, health or safety hazard.

1.9 Environmental Site Assessment (ESA)

“ESA” means overall property evaluation process. Due diligence study, investigation, characterization and evaluation of an area, and/or Phase I & II ESA to ASTM standards stamped by an Arizona Professional Engineer or Registered Geologist to meet the Environmental Protection Agency requirements of the Innocent Landowner Defense

1.10 E-Procurement

“eProcurement (Electronic Procurement)” means conducting all or some of the procurement function over the Internet. Point, click, buy, and ship Internet technology is replacing paper-based procurement and supply management business processes. Elements of eProcurement also include Request for Qualifications, Request for Proposals, and Request for Quotations.

1.11 Feasibility Study

“Feasibility Study” means Analysis of the practicability of a proposal; e.g., a description and analysis of potential cleanup alternatives for a site. The feasibility study usually recommends selection of a cost-effective alternative. It usually starts as soon as the remedial investigation is underway; together, they are commonly referred to as the RI/FS.

1.12 Offer

“Offer” means a response to a Solicitation.

1.13 Offeror

“Offeror” means a person who responds to a Solicitation.

1.14 Remedial Action (RA)

“Remedial Action” means the actual construction or implementation phase of a site cleanup that follows remedial design.

1.15 Remedial Design (RD)

“Remedial Design” means a phase of remedial action that follows the remedial investigation/feasibility study and includes development of engineering drawings and specification for site cleanup.

1.16 Remedial Investigation

“Remedial Investigation” means an in-depth study designed to gather data needed to determine the nature and extent of contamination at a site; establish site cleanup criteria; identify preliminary alternative for remedial action; and support technical and cost analyses



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of alternatives. The remedial investigation is usually done with the feasibility study and referred to as "RI/FS".

1.17 Remediation

"Remediation" means cleanup or other methods used to remove or contain a toxic spill or hazardous materials from a site.

1.18 Solicitation

"Solicitation" means a Request for Proposals ("IFB"), a Request for Technical Offers, a Request for Proposals ("RFP"), a Request for Qualifications ("RFQual"), or any other invitation or request issued by the purchasing agency to invite a person to submit an offer.

1.19 Solicitation Amendment

"Solicitation Amendment" means a change to the Solicitation issued by the Procurement Officer.

2.0 INQUIRIES

2.1 Duty to Examine

It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting an Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time.

2.2 Solicitation Contact Person

Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Procurement Officer.

2.3 Submission of Inquiries

All inquiries related to the Solicitation are required to be submitted in the State's eProcurement system. All responses to inquiries will be answered in the State's eProcurement system. Any inquiry related to the Solicitation should reference the appropriate solicitation page and paragraph number. Offerors are prohibited from contacting any state employee other than the Procurement Officer concerning the procurement while the solicitation and evaluation are in process.

2.4 Timeliness

Any inquiry or exception to the Solicitation shall be submitted as soon as possible for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.



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2.5 No Right to Rely on Verbal or Electronic Mail Responses

An Offeror shall not rely on verbal or electronic mail responses to inquiries. A verbal or electronic mail reply to an inquiry does not constitute a modification of the solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre-Submittal Conference

If a pre-submittal conference has been scheduled under the Solicitation, the date, time and location shall appear in the State's eProcurement system. Offerors should raise any questions about the Solicitation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a Solicitation Amendment.

2.8 Persons with Disabilities

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Procurement Officer. Requests shall be made as early as possible to allow time to arrange the accommodation.

All questions related to the content of this Request for Qualifications shall be submitted via the Q & A function within the solicitation in APP. Inquiries received less than 72 hours prior to the bid opening date are not guaranteed to be answered before the offer due date and time. Only official solicitation amendments issued by the State Procurement Office through APP shall constitute a change to the solicitation requirements. Technical inquiries about submitting your offer in APP should be submitted to the APP Help Desk by phone at (602) 542-7600, option 1, or by email at app@azdoa.gov

3.0 OFFER PREPARATION

3.1 Electronic Documents

The Solicitation is provided in an electronic format. Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission to the State's eProcurement system. Any unidentified alteration or modification to any Solicitation, attachments, exhibits, forms, charts, or illustrations contained herein shall be null and void. Offeror's electronic files shall be submitted in a format acceptable to the State. Acceptable formats include .doc and .docx (Microsoft Word), .xls and .xlsx (Microsoft Excel), .ppt and .pptx (Microsoft PowerPoint) and .pdf (Adobe Acrobat). Offerors wishing to submit files in any other format shall submit an inquiry to the Procurement Officer.

3.2 Evidence of Intent to be bound

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer in the State's eProcurement system and shall include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms



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of the Solicitation and that the information provided is true, accurate, and complete. Failure to submit verifiable evidence of intent to be bound, such as a signature, shall result in rejection of the Offer.

3.3 Exceptions to RFQual Documents

3.3-A *Exceptions to the Terms and Conditions.*

All exceptions included with the Offer shall be submitted in the State's eProcurement system in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

3.3-B *Exceptions To Other Solicitation Documents*

An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.

3.3-C *Exceptions Affect Evaluation*

All exceptions that are contained in the Offer may negatively impact an Offeror's susceptibility for award. An Offer that takes exception to any material requirement of the solicitation may be rejected.

3.4 Subcontracts

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

3.5 Cost of Offer Preparation

The State will not reimburse any Offeror the cost of responding to a Solicitation.

3.6 Federal Excise Tax

The State is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

3.7 Provision of Tax Identification Numbers

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance form.

3.8 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the State under this Contract. If the federal identifier of the Offeror is a social security number, this



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number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.9 Identification of Taxes in Offer

The State is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the Solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.

3.10 Disclosure

If the person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall set forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

3.11 Delivery

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

3.12 Federal Immigration and Nationality Act

By signing of the Offer, the Offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion, require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have five days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the Offer not being considered for contract award.

4.0 SUBMISSION OF OFFER

4.1 APP

Offers in response to this solicitation shall be submitted within the State's eProcurement system, APP (<https://appstate.az.gov>). Please be advised that utilizing APP requires a certain level of technical competency that should be considered when selecting staff to work in the system. The successful submission of your offer in APP is critical in order for the State to receive and evaluate your offer. Therefore, particular focus should be placed on the selection



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of staff given the responsibility for submitting your offer in APP. Offers shall be received before the date/time listed in the solicitation's 'Bid Opening Date' field. Offers submitted outside APP, or those that are received after the date/time stated in the 'Bid Opening Date' field, shall be rejected.

4.2 Offer Submission, Due Date and Time

Offerors responding to a Solicitation must submit the Offer electronically through the State's eProcurement system. Offers shall be received before the due date and time stated in the solicitation. Offers submitted outside of the State's eProcurement system or those that are received after the due date and time shall be rejected.

4.3 Offer and Acceptance

Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance form shall be signed with a signature by the person authorized to sign the Offer, and shall be submitted in the State's eProcurement system with the Offer no later than the Solicitation due date and time. Failure to return an Offer and Acceptance form may result in rejection of the Offer.

4.4 Solicitation Amendments

A Solicitation Amendment shall be acknowledged in the State's eProcurement system no later than the Offer due date and time. Failure to acknowledge a Solicitation Amendment may result in rejection of the Offer.

4.5 Offer Amendment or Withdrawal

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.6 Confidential Information

If an Offeror believes that any portion of an Offer, protest, or correspondence contains a trade secret or other proprietary information, the Offeror shall clearly designate the trade secret and other proprietary information, using the term "confidential." An Offeror shall provide a statement detailing the reasons why the information should not be disclosed including the specific harm or prejudice that may arise upon disclosure. The Procurement Officer shall review all requests for confidentiality and provide a written determination. Until a written determination is made, a Procurement Officer shall not disclose information designated as confidential except to those individuals deemed to have a legitimate State interest. In the event the Procurement Officer denies the request for confidentiality, the Offeror may appeal the determination to the State Procurement Administrator within the time specified in the written determination. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information.



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4.7 Public Record

All Offers submitted and opened are public records and must be retained by the State for six years. Offers shall be open and available to public inspection through the State's eProcurement system after Contract award, except for such Offers deemed to be confidential by the State.

4.8 Non-collusion, Employment, and Services

By signing the Offer and Acceptance form or other official contract form, the Offeror certifies that:

- (1) The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
- (2) The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with an applicable federal, state, and local laws and executive orders regarding employment.

4.9 Content of Statement of Qualifications

4.9-A Required Documents

The submitted statement of qualifications shall include the following documents. Failure to submit all documents below according to instructions may have a negative impact on the evaluated score or result in the offer being determined non-responsive and therefore not susceptible for award.

- (1) Attachment 1 – Signed Offer and Acceptance Form
- (2) Attachment 2-A – Offeror Information Questionnaire
- (3) Attachment 2-B – Experience and Organizational Profile
- (4) Attachment 3-A – Method Proposal
- (5) Attachment 3-B – Key Personnel and Resumes
- (6) Attachment 3-C – Boycott of Israel Disclosure
- (7) Attachment 3-D – Forced Labor of Ethnic Uyghurs Ban
- (8) Attachment 5-A – Confidential Information Designation
- (9) Attachment 5-B – Conformance Statements and Supplements

4.9-B Pre-Printed Documents

Any pre-printed documents required by this solicitation are located within this document and shall be completed in the format provided and according to any instructions contained within the document or elsewhere in these instructions. Offerors shall download all pre-printed documents, save the completed document to their computer, and upload completed documents as part of their submitted



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offer in APP. Excessive marketing attachments that are not requested in the documents listed below are discouraged.

4.9-C *Submission of Pricing*

Offeror shall not submit fees or hourly rate schedules with their statement of qualifications.

5.0 EVALUATION

5.1 Opening

Supplemental to Instructions to Offerors paragraph 4.7, offers received by the due date and time will be opened online and the name of each Offeror will be publicly available. Offers will not be subject to public inspection until after contract award.

5.2 Evaluation

Selection Criteria and Content for Statements of Qualifications. The Selection Committee will evaluate the SOQs submitted in response to this RFQual. Submitters' competence and qualifications will be evaluated as demonstrated in accordance with the selection criteria as listed below. In selecting material for inclusion in the Submitter's Statement of Qualifications, Submitters should be mindful of the following:

5.2-A The Proposal should display clearly and accurately the capacity, knowledge, experience and ability of the Submitter to meet the requirements of this RFQual.

5.2-B Each Submitter may submit one (1) SOQ for each discipline in response to this solicitation. Material submitted should not exceed thirty (30) pages in length, instruction pages not included.

5.2-C In accordance with the Arizona Procurement code A.R.S. § 41-2534, awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria listed below.

5.2-D In addition to the evaluation criteria, exceptions to the terms and conditions, as stated in the Instructions to Offerors 2.3.3, may impact an Offeror's susceptibility for award.

5.2-E The selection criteria are listed below in their relative order of importance with item 1.4.1.5.2 representing the most important item.

5.2-A-(01) Experience, Capacity and Qualifications. Attachments 2A & 2B (Max 400 points)



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(01) (a) Design team should be registered and/or licensed professionals with experience in similar type projects. The Design Team's demonstration of relevant and substantial experience with Similar Projects or projects of a comparable type and scope. Evaluation of prospective Design Teams will include demonstrated success in (i) completing such projects consistent with program, budget, schedule and technical requirements, and (ii) completing designs that exceed energy efficiency standards, utilize sustainable building techniques, and demonstrate creativity or innovation.

Successful Completion of projects of a similar Statement of Work as contained in this RFQual in the last five years is highly desirable.

(01) (b) Team Experience. Demonstrated common project experience by proposed team. The Design Team's demonstration of the qualifications of firm principals and staff members and their availability for timely completion of the scope of services. Evaluation of prospective Design Teams will include a demonstrated ability to complete the scope of services effectively and within the requisite time period.

5.2-A-(02) Method of Approach. Attachment 3A (Max 350 points)

(01) (c) Include a statement of your approach to this specific project, including design philosophy, understanding of program, alternative concepts and methods for consideration. The Design Team's proposed scope, schedule, and overall approach regarding the design and construction advisory services. Evaluation of prospective Design Teams will include how well the overall proposal responds to the specific needs of the project.

5.2-A-(03) Key Personnel Proposal. Attachment 3B (Max 200 points)

5.2-A-(04) Conformance to Solicitation and Attachment Instructions (Max 50 points)



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5.3 Selection Process

5.3-A Selection Committee

A Selection Committee will evaluate and score each Statement of Qualifications (SOQ).

5.3-A-(01) The Selection Committee will create a Final List, containing not more than ten (10) Submitters. The List will show those Submitters in order of preference based on the combined results (maximum 1000 points) and the evaluation of SOQ's (maximum 1000 points) prior to any recommendation to award is made, only the names of the firms on the List will be available to the public – rankings will not be available at that time.

5.3-A-(02) The Procurement Officer will issue a formal (Invitation to Negotiate) to the highest-ranking Submitters on the Final List. Upon successful negotiations agreeable to the State and the Submitter, a contract may be executed. Not more than ten (10) contracts may be awarded. If a reasonable fee and contract conditions cannot be achieved with a qualified Submitter, negotiations will cease.

5.4 Cost is Not a Consideration

Fees, price, man-hours or any other cost information shall not be requested or considered at any point in the qualification's selection process, the selection of persons or firms to be on the final list, in determining the order of preference of persons or firms on the final list.

5.5 Clarifications

The State may request oral or written clarifications, including demonstrations or questions and answers, for the sole purpose of providing a greater understanding of the offer. Clarifications shall not otherwise afford the Offerors the opportunity to alter or make a material change in its offer.

5.6 Negotiations

The Procurement Officer may proceed to negotiate an agreement for services, commemorated with an official (**Invitation to Negotiate**) sent to the highest ranked Submitter on the Final List. If the Procurement Officer is unable to negotiate a satisfactory agreement with a Submitter, for compensation and on other terms the Procurement Officer determines to be fair and reasonable, negotiations with that Submitter will be formally terminated. Once negotiations have been terminated with a Submitter, they may not be re-opened with that Submitter for this procurement.



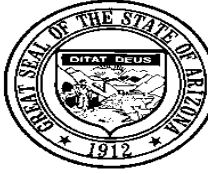
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5.7 Responsibility, Responsiveness, and Susceptibility

The State shall consider, at a minimum, the following criteria when determining Offeror's responsibility, as well, as the statement of qualification's responsiveness and susceptibility for contract award.

- 5.7-A** Whether the Offeror has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;
- 5.7-B** Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints and/or negative references;
- 5.7-C** Whether the Offeror is legally qualified to contract with the State and the Offeror's financial, business, personnel, or other resources, including subcontractors; This includes if the vendor or key personnel have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
- 5.7-D** Whether the Offeror promptly supplied all requested information concerning its responsibility;
- 5.7-E** Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation including its Amendments and all documents incorporated by reference;
- 5.7-F** Whether the Offer limits the rights of the State;
- 5.7-G** Whether the Offer includes or is subject to unreasonable conditions, to include conditions upon the State necessary for successful Contract performance. The State shall be the sole determiner as to the reasonableness of a condition;
- 5.7-H** Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions;
- 5.7-I** Whether the Offeror provides misleading or inaccurate information: and,
- 5.7-J** Whether the Offer was sufficient to permit evaluation by the State, in accordance with the evaluation criteria identified in this Solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform the Scope of Work, acknowledged Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond



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and stability including subcontractors and any other data specifically requested in the Solicitation.

5.8 Financial Stability

The Offeror must be financially stable and able to substantiate the financial stability of its company. The State reserves the right to request additional documentation from the Offeror and to request reports on financial stability from independent financial rating services. If requested, current financial statements or other financial information deemed appropriate, must be provided within five (5) business days of request. The State reserves the right to reject any offer which does not demonstrate financial stability sufficient for the scope of this contract award.

5.9 Late Offers

An Offer submitted after the exact Offer due date and time shall be rejected.

5.10 Disqualifications

An Offeror (including each of its principals) who is currently debarred, suspended, or otherwise lawfully prohibited from any public procurement activity shall have its Offer rejected.

6.0 AWARD

6.1 Best Advantage to State

The state intends to enter into negotiations with the highest qualified persons or firms on the final list.

6.2 Contract Document Consolidation

At its sole option, following any contract award(s) the State may consolidate the resulting contract documents. Examples of such consolidation would include (i) reorganizing solicitation documents and those components of the Contractor's Offer not pertaining to the Contract's operation; or (ii) excluding any components of the Contractor's Offer that were not awarded. Contract document consolidation shall not materially change the Contract.

6.3 Notice to Proceed

Contractors shall commence with the performance of the Contract upon receipt of a notice to proceed issued by the Procurement Officer or other authorized representatives as set forth in the Contract. Prior to receiving this notice, Contractors shall not commence any billable activities in the performance of the Contract.



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6.4 Evidence of Insurance Coverage

Prior to commencing services under any awarded Contract, successful Contractor(s) shall provide and maintain during the entire term of an awarded Contract, a certificate of insurance indicating the coverages stated in the Special Terms and Conditions of this solicitation.

6.5 Contract Inception

An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

6.6 Effective Date

The effective date of the Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7.0 PROTESTS

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of the Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the Procurement Officer makes the procurement file available for public inspection. A protest shall include:

- (1) The name, address, email address and telephone number of the interested party;
- (2) The signature of the interested party or its representative;
- (3) Identification of the purchasing agency and the Solicitation or Contract number;
- (4) A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- (5) The form of relief requested.



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SPECIAL TERMS AND CONDITIONS

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1 Co-Op Buyer

“Co-Op Buyer” means a member of the State Purchasing Cooperative that has entered into a “Cooperative Purchasing Agreement” with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, “Co-Op Buyer” is to be construed as encompassing “eligible procurement unit” under A.A.C. R2-7-101(23).

NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, “non-profit organizations” are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.

1.2 Eligible Agency

“Eligible Agency” in the use of this contract shall mean any State of Arizona agency, university, commission, or board. The State reserves the right to expand the definition of “Eligible Agency” to include Co-Op Buyer as defined in the Special Terms and Conditions paragraph 1.2 at time of a Contract Extension.

2.0 Contract Interpretation

No modifications to uniform terms and conditions section

3.0 Contract Administration and Operation

3.1 Term of Contract

The term of the Contract will commence on the date indicated on the Acceptance and continue for a term not to exceed five (5) years unless canceled, terminated, or permissibly extended.

4.0 Costs and Payments

No modifications to uniform terms and conditions section

5.0 Contract Changes

No modifications to uniform terms and conditions section

6.0 Risk and Liability

~~6.1 Indemnification Clause~~

~~To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as~~



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~~“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers’ Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.~~

~~This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.~~

6.2 Insurance Requirements

6.2.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

6.2.2 The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

6.3 Minimum Scope and Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

6.3.1 Commercial General Liability (CGL) – Occurrence Form

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

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



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- Damage to Rented Premises \$50,000
- Each Occurrence \$1,000,000
- a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

6.3.2 Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000
- a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

6.3.3 Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability
 - Each Accident \$1,000,000
 - Disease – Each Employee \$1,000,000
 - Disease – Policy Limit \$1,000,000
- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.



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- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

6.3.4 Professional Liability (Errors and Omissions Liability)

- Each Claim \$2,000,000
 - Annual Aggregate \$2,000,000
- a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

6.4 Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

- 6.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
- 6.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

6.5 Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

6.6 Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than



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A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

6.7 **Verification of Coverage**

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

6.7.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

6.7.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

6.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6.8 **Subcontractors**

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

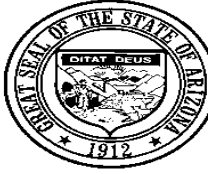
6.9 **Approval and Modifications**

The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

6.10 **Exceptions**

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

7.0 Warranties



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No modifications to uniform terms and conditions section.

8.0 State's Contractual Remedies

No modifications to uniform terms and conditions section

9.0 Contract Termination

No modifications to uniform terms and conditions section

10.0 Contract Claims

No modifications to uniform terms and conditions section.

11.0 Design Professional Responsibilities

No modifications to uniform terms and conditions section.

12.0 Agency Responsibilities

No modifications to uniform terms and conditions section.

13.0 Data and Information Handling

No modifications to uniform terms and conditions section.

14.0 Information Technology Work

No modifications to uniform terms and conditions section.

End of Section



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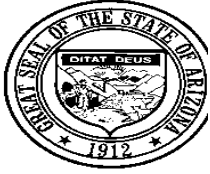
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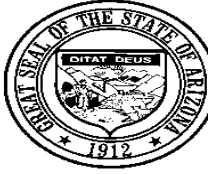
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1. DEFINITION OF TERMS

As used in the Contract, the terms listed below are defined as follows:

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| 1.1 Additional Work | “Additional Work” means the addition of any Work, not described as Basic Work, to be provided to the Agency by the Design Professional that is contemplated by, but not specifically described in, an Exhibit to this Contract. Compensation for Additional Work must be approved through a Change Order or Contract Amendment. |
| 1.2 Agency | “Agency” is used with the same meaning as “State” in definition below. |
| 1.3 Agency Designated Representative | “Agency Designated Representative” means the assigned representative of the Agency to monitor the progress and Schedules of the Work for the Project. |
| 1.4 Allowance | “Allowance” means construction funds established by the Agency to compensate for a portion of the Work which cannot sufficiently be specified or determined. The Contractor shall place any and all Allowances within separate line items in the Contractor’s Contract Cost at time of offer submission. |
| 1.5 Application for Progress Payment | “Application for Progress Payment” means Contractor and/or Contractor’s monthly invoice request for payment that includes any and all portions of the Work in a Contract that have been completed and accepted by the Agency for which an invoice has not been previously submitted in accordance with the requirements of the Contract Documents. Progress Payments for Contractor Work approved and certified by the Contractor and Agency signature, shall be paid less deductions to pay the expenses the Agency reasonably expects to incur in correcting a deficiency set for in an Agency written finding in accordance with A.R.S. §41-2577, and retained percentage in accordance with A.R.S. §41-2576. |
| 1.6 Application for Final Payment | “Application for Final Payment” means Construction Contractor’s final invoice for payment. The Application for Final Payment shall meet all the requirements of Applications for Payment, but shall also include any and all remaining open invoices under the Contract. After a Construction Contractor’s Application for Final Payment is approved by the Agency, the Agency shall not release any additional payments to that Construction Contractor under the Contract. |
| 1.7 Arizona Procurement Code; A.R.S., A.A.C. | “Arizona Procurement Code” means, collectively, Arizona Revised Statutes (abbreviated “A.R.S.”) Title 41 Chapter 23, Section 2501, <i>et seq.</i> , and the rules promulgated thereunder, Arizona Administrative Code (abbreviated “A.A.C.”) R2-7-101, <i>et seq.</i> NOTE: There are frequent references to the Arizona Procurement Code throughout the Solicitation, therefore, you will need to be familiar with its provisions to be able to understand the Solicitation fully. Links for obtaining copies are given below. The Arizona Department of Administration State Procurement Office provides a reference compilation of the Arizona Procurement Code on its website: https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations The Arizona State Legislature provides the official A.R.S. online at: http://www.azleg.gov/arstitle/ The Office of the Arizona Secretary of State provides the official A.A.C. online at: http://www.azsos.gov/rules/arizona-administrative-code |
| 1.8 Arizona TPT | “Arizona TPT” means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at: https://www.azdor.gov/business/transactionprivilegetax.aspx . |



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| 1.9 <u>As-Builts</u> | "As-builts" shall mean the marked-up version of the As-built Drawings and Specifications Contract Documents prepared by the Construction Contractor to record as-built conditions, current changes, and selections made during construction. |
| 1.10 <u>Attachment</u> | "Attachment" means any item that the Offeror is required to submit as part of the provision of Services required to design or engineer or construct the Project, as detailed in Exhibit A. |
| 1.11 <u>Basic Work</u> | "Basic Work" means the services to be provided to the Agency by the Design Professional described in an Exhibit. |
| 1.12 <u>Bidding Documents</u> | "Bidding Documents" means those documents prepared and furnished by the Design Professional for the purpose of obtaining bids from Construction Contractors to construct the Work. |
| 1.13 <u>Building Work</u> | "Building Work" means everything covered by the definitions in A.R.S. § 41-2503 [Definitions] of the term "construction" (para. 4), "maintenance services" (para. 26), and "operations services" (para. 28). |
| 1.14 <u>Change Order</u> | "Change Order" means the instrument by which the Agency authorizes Construction Contractor to perform some or all of the Work, including but not limited, Construction Change Orders, Design Change Notices, and Field Order Directives. Consistent with A.R.S. § 41-2503(3), only the Procurement Officer responsible for this Contract has the authority to modify or amend this Contract through a signed Change Order or Contract Amendment. The Agency will only compensate Construction Contractor for Work that has been approved by the Agency through a fully authorized Change Order or Contract Amendment. |
| 1.15 <u>Close Out Documents</u> | "Close Out Documents" means those items required by Exhibit M-Contractor Project Closeout, and as may be further defined, identified, and required by the Contract Documents. |
| 1.16 <u>Conditional Waiver of Lien</u> | <ol style="list-style-type: none"> 1) "Conditional Waiver of Lien" has the meaning defined in A.R.S §33-1008 which, for convenience of reference only, is a: 2) Conditional Waiver and release on Progress Payment "where the claimant is required to execute a waiver and release in exchange for or in order to induce the payment of a progress payment and the claimant is not in fact paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release"; and 3) Conditional Waiver and release on Final Payment "where the claimant is required to execute a waiver and release in exchange for or in order to induce payment of a final payment and the claimant is not paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release". |
| 1.17 <u>Construction</u> | "Construction" as defined in A.R.S. § 41-2503(4) means the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any real property in which the public has an interest. |
| 1.18 <u>Construction Contract</u> | "Construction Contract" means any contract between the State and a Person that has or will engage in Construction Services for the benefit of the State. |
| 1.19 <u>Construction Contractor</u> | "Construction Contractor" is a Person that has or had a contract with the State to engage in Construction Services for the benefit of the State. |
| 1.20 <u>Construction Documents</u> | "Construction Documents" means any and all documents created by the Design Professionals that describe the Work in detail, including but not limited to, plans, specifications, revisions, addenda, and Change Orders, issued to build the project. Construction Documents created after the Contract is signed may be integrated into the Contract if, and only if, there is a properly executed Contract Amendment or Change Order to verify that integration. |



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| 1.21 Contingency | "Contingency" means an amount associated with Costs that were unforeseen by the Contractor when it submitted its offer which may be authorized by the Agency through a Change Order. Contractor may not proceed with Work on Contingencies without prior authorization from the Agency through a Field Order Directive or Change Order. The Agency will not compensate Contractor for unauthorized Contingency Work. |
| 1.22 Contract | "Contract" means, collectively, the entire agreement between Agency and Design Professional and/or Construction Contractor, including all of the Contract Documents, the Acceptance, the Solicitation Documents, any and all authorized Change Orders, and any Contract Amendments. The Contract is identified as a "Purchase Order" in APP, since that is the terminology used in the software. The terms of this Contract are defined in this document alone. The use of different terminology, or the same terminology with a different meaning, in any State eProcurement system (including, but not limited to, APP) does not override any term in this Contract. The Design Professional and/or Construction Contractor should contact the relevant Procurement Officer if it has any questions regarding the meaning of terms in the State's eProcurement system. |
| 1.23 Contract Amendment | "Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution without changing the general scope. Only the Procurement Officer responsible for this Contract has the authority to modify or amend this Contract. The term "Change Order" in APP is synonymous with "Contract Amendment." |
| 1.24 Contract Cost | "Contract Cost" means the amount for which a Design Professional and/or Construction Contractor agrees to perform the Work as set forth in its Contract with the Agency. |
| 1.25 Contract Terms and Conditions | "Contract Terms and Conditions" means the <u>Special Terms and General Conditions</u> and these Uniform Terms and General Conditions taken collectively. |
| 1.26 Contractor | For the purpose of this Contract, "Contractor" refers to any Person who has entered into a Contract with the Agency, including, but not limited to, a Design Professional or Construction Contractor. |
| 1.27 Contractor Indemnitor | "Contractor Indemnitor" means Contractor and/or any of its owners, officers, directors, agents, employees, or Subcontractor and/or Subconsultants and, if applicable, their respective spouses. |
| 1.28 Cost | <ol style="list-style-type: none"> 4) "Cost" as defined by A.R.S. § 41-2571(2), means the aggregate Cost of all Materials and services, including labor performed by force account. The Agency shall only pay for expenses explicitly authorized as part of the Work under the Contract. 5) For any changes, subject to Markup, in the Work or additional charges sought by Construction Contractor under the contract, "Cost" shall only mean actual direct labor, material, and service Costs incurred by Construction Contractor at the construction site and which are necessary to complete the Work. Such Costs shall include those from subcontractors, vendors, and material suppliers. 6) Costs, for the purpose of this section, shall exclude markup for, including but not limited to, Costs incurred for general conditions, bonds, insurance, contingency, overhead or profit. |
| 1.29 Cost of Work | "Cost of Work" means the sum of the Costs the Design Professional and/or Construction Contractor necessarily incurred and paid in the proper performance of the Work. |
| 1.30 Day | "Day" means a calendar day unless otherwise specified in a particular context. |
| 1.31 Design Change Notice | "Design Change Notice" refers to an agreement that records a change to the time for Work completion, price, and/or change in design after the initial completion of the design was reviewed and approved by the Statutory Review. The purpose of the Design Change Notice |



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| | is to ensure: the changes are re-reviewed and approved by Statutory Review and the Procurement Officer; and the Contract Documents are revised in a manner that is consistent with the Design Requirements under the Contract. |
| 1.32 Design Professional | “Design Professional” means the individual or firm with which the Agency has entered into a written Design Professional Services Contract. |
| 1.33 Design Professional Services | “Design Professional Services” as defined in A.R.S. § 41-2571(4), means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a Design Professional or employees or Subconsultants of the Design Professional. |
| 1.34 Design Professional Service Contract | “Design Professional Service Contract” shall be the executed Exhibit A |
| 1.35 Design Requirements | “Design Requirements” means, at a minimum, the purchasing Agency’s written description of the Work by the Design Professional including: the required features, functions, characteristics, qualities and properties; the anticipated Schedules, including start, duration and completion; and estimated budgets applicable to the specific procurement for design and Construction and, if applicable, for operation and maintenance and plans and specification for the project. “Design requirements” may also include the following, at the purchasing Agency’s discretion: Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by a design professional who is registered pursuant to A.R.S. § 32-121; and/or additional design information or documents. |
| 1.36 Drawings | “Drawing” means the Work product of the Design Professional which graphically depicts the Work. |
| 1.37 Estimated Project Construction Cost | “Estimated Project Construction Cost” shall mean Design Professional’s written estimate in the form specified by the Agency of the total Construction Cost of the Project at the various stages of the design process. |
| 1.38 Excusable Delay | “Excusable Delay” means a delay to the Schedules approved by the Agency and Design Professional through a Change Order that entitles the Construction Contractor to an adjustment of the Contract time for Substantial Completion, but not an adjustment of the Contract Cost. |
| 1.39 Exhibit | “Exhibit” means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Contract Documents. |
| 1.40 Field Order Directive | “Field Order Directive” refers to written directives used in advance of a Construction Change Order, as more specifically prescribed in these Uniform Terms and General Conditions. |
| 1.41 Final Completion | “Final Completion” means the date upon which the Work is complete in accordance with the terms and conditions of the Contract, including punch list items. The date of Final Completion shall be set by the Agency as a certain number of days after Substantial Completion. Any additional or supplemental Work after this date due to Construction Contractor error or omission shall be completed by the Construction Contractor without additional compensation. |
| 1.42 Final Completion Certificate | The “Final Completion Certificate-Exhibit L” is the certificate issued by the Design Professional and/or the Agency Designated Representative that documents, to the best of the Design Professional’s and/or the Agency Designated Representative’s knowledge and understanding, that Construction Contractor has completed all Work required by the Contract Documents, including, but not limited to: all of the Punch List items and pre-final Punch List items for which it is responsible; final cleanup; and Construction Contractor’s |



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| | provision of Record Documents, operations manuals, maintenance manuals, and any and all other Close Out Documents required by the Contract Documents and list on Exhibit M-Contractor Project Closeout. |
| 1.43 Final Payment | “Final Payment” means the last and final monetary compensation the Agency will make to Construction Contractor for any portion of the Project including any Work that has been completed and accepted for which payment has not been made, amounts owing to adjustments to the final Contract Sum resulting from approved Change Orders, and release of Construction Contractor’s retainage if any. |
| 1.44 General Conditions of Contractor | “General Conditions of Contractor” means the Construction Contractor’s resources, equipment, and items used by the Construction Contractor in the Work of the Project that is used to complete the Project. The General Conditions Fee will be based on actual itemized, documented Cost. |
| 1.45 Gratuity | “Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received. |
| 1.46 Hazardous Waste; Release | “Release” means any discharging, disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pouring, pumping, releasing, spilling, or similar action or event. “Construction Contractor Hazardous Waste Release” means any Release of a Hazardous Substance on Agency’s property or adjoining property during the Work arising, in whole or in part, from acts or omissions of Construction Contractor or any Subcontractor. |
| 1.47 Hazardous Substance | “Hazardous Substance” means a substance, material or hazardous waste which, by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritating or otherwise harmful, is likely to cause death or injury. |
| 1.48 Hazardous Waste | “Hazardous Waste” means “hazardous waste”, as defined in the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and any successor statutes and any regulations, rules or guidelines promulgated pursuant thereto as in effect from time to time (including, without limitation, any such waste resulting from removal of, demolition or modifications of or additions to part or all of any existing structure, facility or equipment). “Contractor Hazardous Waste” means any Hazardous Waste arising during or from Work that is generated, in whole or in part, by the acts or omissions of Construction Contractor or a Subcontractor and/or Subconsultants. |
| 1.49 Indemnified Basic Claims | “Indemnified Basic Claims” means any and all claims, actions, liabilities, damages, losses, or expenses, including court Costs, expert fees, attorneys’ fees, and Costs of claim processing, investigation and litigation, for any and all damage or equitable claims made against the Agency, including, but not limited to, personal injuries, death, property damages (real, personal, tangible or intangible), and injunctive relief. See paragraph 6.2. |
| 1.50 Instructions to Offerors | “Instructions to Offerors” is part of the Solicitation Documents. |
| 1.51 Materials | “Materials” means, as defined in A.R.S. § 41-2503(7) “all property, including equipment, supplies, printing, insurance, and leases of property [but] does not include land, a permanent interest in land or real property or leasing space.” “Materials” includes software, unless the software is sold or provided as a service under the Contract. Software sold or provided as a service under the Contract is both a Material (to the extent it consists of encoded information or computer instructions) and a service, as described in “Services”. |
| 1.52 Negotiation | “Negotiation” means, as defined in A.A.C. R2-7-101(32), an exchange or series of exchanges between the Agency and an offeror or Design Professional and/or Construction Contractor |



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| | that allows the Agency or the offeror or Design Professional and/or Construction Contractor to revise an offer or Contract, unless revision is specifically prohibited by the Arizona Procurement Code. |
| 1.53 Notice to Cure | “Notice to Cure” means a written letter from a Procurement Officer to cure an event of default and/or an anticipatory breach of Contract setting forth a time limit in which the cure is to be completed or commenced and diligently prosecuted. |
| 1.54 Notice to Proceed | “Notice to Proceed” means the written document from the Project Manager, by letter or email, informing Design Professional and/or Construction Contractor of the date designated as the date of commencement of construction and the date of Substantial Completion. |
| 1.55 Offer and Acceptance Form | “Offer and Acceptance Form” means the document bearing the State Contract number once Procurement Officer has signed it to signify (a) Agency’s formal acceptance of the negotiated offer from the Design Professional and (b) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term “acceptance” used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services. |
| 1.56 Part, Section; Exhibit | “Part,” “Section,” and “Exhibit” are each defined in the Instructions to Offerors . |
| 1.57 Payment Bond | “Payment Bond” means a bond issued by a surety authorized to transact business in this State, issued in the amount for the Contract Cost and is payable to Agency, solely for the protection and use of payment bond beneficiaries pursuant to A.R.S. § 41-2574. |
| 1.58 Performance Bond | “Performance Bond” means a bond issued by a surety authorized to transact business in this State, issued in the amount for the Contract Cost and is payable to State, to guarantee the faithful performance of the Work by the Construction Contractor in accordance with the Contract Documents pursuant to A.R.S. § 41-2574. |
| 1.59 Person | “Person” means any corporation, business, individual, firm, partnership, association, union, committee, club, or other organization or group of individuals. |
| 1.60 Preconstruction Services | “Preconstruction Services” means services and other activities during the design phase. |
| 1.61 Procurement Officer | “Procurement Officer” means the person, or his or her designee, who has been duly authorized by Agency to enter into and administer the Contract and to make written determinations with respect to the Contract. Procurement Officer is as identified on the Acceptance unless subsequently changed by Contract Amendment. |
| 1.62 eProcurement System (currently APP) | <ol style="list-style-type: none"> 1) “eProcurement System” means the State’s official electronic procurement system, established pursuant to A.A.C. R2-7-201, as set forth in the Arizona Department of Administration (“ADOA”) State Procurement Office policy. This eProcurement System may be subject to change. The State’s current eProcurement system is “APP.” The current version of the ADOA policy regarding the State’s eProcurement System is <i>Technical Bulletin No. 020, APP – The Official State eProcurement System</i>. 2) NOTE (1): Technical Bulletin No. 020 is available online at: https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations 3) NOTE (2): The URL for APP itself is: https://appstate.az.gov/ |
| 1.63 Product Data | “Product Data” means illustrations, Schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Design Professional and/or Construction Contractor to illustrate Materials or equipment for some portion of the Work. |



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| 1.64 Project | “Project” means any and all activities necessary for realization of the Work. This includes but is not limited to design, Contract award(s), execution of the Work itself, and fulfillment of all Contract and warranty obligations. |
| 1.65 Change Order Request | “Change Order Request” means a document that informs Agency of a proposed change in the Work and appropriately describes or otherwise documents such change including Construction Contractor(s)’s response of pricing for the requested change. |
| 1.66 Punch List | “Punch List” means a list of items of Work to be completed or corrected by Construction Contractor after Substantial Completion. Punch Lists indicate items to be finished, remaining Work to be performed, or minor Work that does not meet quality or quantity requirements as required in the Contract Documents. |
| 1.67 Record Documents | The term "Record Documents" shall mean those documents including, but not limited to, the updated version of the Construction Documents prepared by the Design Professional incorporating any Attachments, Exhibits, Change Orders, and information from the As-Builts and other data furnished by Construction Contractors to the Design Professional. |
| 1.68 Request for Information | “Request for Information” (RFI) means a written request by Construction Contractor directed to Design Professional or Agency Designated Representative for a clarification of the information provided in the Contract Documents or direction concerning information necessary to perform the Work that may be omitted or unclear from the Contract Documents. |
| 1.69 Reimbursable Expenses | <p>“Reimbursable Expenses” means a limited range of direct, actual Costs approved by the Agency for which the Design Professional can receive compensation under the Contract for amounts expended in the interest of the Project. Unless otherwise detailed in the Scope of Work or limited by other State policies, and subject to review and approval by the Agency, the following, and only the following, are the categories of Costs which may be Reimbursable Expenses:</p> <p>Subject to the Cost limitation of the State of Arizona Travel Policy, transportation Costs accrued in furtherance of Work and under the Contract and Agency authorized out-of-town travel and subsistence;</p> <p>Fees paid to governmental entities that ensure State compliance with any applicable laws or codes;</p> <p>Costs paid toward reproduction, plots, standard form documents, postal charges;</p> <p>If requested and approved by the Agency, Costs paid for surveys, requests and special requests.</p> <p>Design Professional shall not exceed the approved Reimbursable Expense amount stated in the Contract without prior written approval of the Agency through a Contract Amendment.</p> |
| 1.70 Samples | “Samples” mean representative physical examples of Materials, equipment, or workmanship used to confirm compliance with requirements and/or to establish standards for use in execution of the Work. |
| 1.71 Schedule | “Schedule” means the timetable which sets forth pertinent milestones, reviews, critical path of activities and other deadlines for timely completion of the Work for the Project prepared by Design Professional or Construction Contractor and accepted by Agency. The Schedule shall not exceed the time limit current under the Contract Documents unless approved by Agency through a Contract Amendment. |
| 1.72 Schedule of Values | “Schedule of Values” means the detailed breakdown of the original Contract Cost for the Materials, labor, and equipment necessary to accomplish the Design and/or Construction Work. |



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| 1.73 <u>Scope of Work</u> | “Scope of Work” means the Requirements Document of the Solicitation Documents. Scope of Work is inclusive of the Project program for design Work and the Construction Documents for performance of the construction Work. |
| 1.74 <u>Secure Locations</u> | “Secure Locations” means those buildings and grounds (Sites) that require specific security-related criteria where access to the Work Site or the Site’s daily operations negatively affects the Construction Contractor’s productivity on a daily basis. |
| 1.75 <u>Services</u> | “Services” as defined in A.R.S. § 41-2503(35), means “the furnishing of labor, time, or effort by [the] [C]ontractor or [S]ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not include employment agreements or collective bargaining agreements.” Services includes Building Work and the service aspects of software described in “Materials” |
| 1.76 <u>Shop Drawings</u> | “Shop Drawings” mean the drawings, diagrams, illustrations, Schedules, performance charts, brochures, and other data prepared by Construction Contractor or its Subcontractors which detail a portion of the Work. |
| 1.77 <u>Site</u> | “Site” means the geographical location of the Work for the Project. |
| 1.78 <u>Solicitation; Solicitation Documents</u> | “Solicitation” and “Solicitation Documents” are defined in the <u>Instructions to Offerors</u> . |
| 1.79 <u>Special Terms and General Conditions</u> | “Special Terms and General Conditions” are contained in the Solicitation Documents. |
| 1.80 <u>Specification</u> | “Specification” has the meaning given in A.R.S. § 41-2561, which, for convenience of reference only, is “... any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.” Specifications (if any are included in the Contract), are indexed in the <u>Scope of Work</u> and could be bound separately from the other documents forming the Contract. |
| 1.81 <u>State</u> | With respect to the Contract generally, “State” means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, “State” means each eligible Agency who has issued the Order. |
| 1.82 <u>State Indemnitees</u> | “State Indemnitees” means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees. |
| 1.83 <u>State Fiscal Year</u> | “State Fiscal Year” means the period beginning each July 1 and ending each June 30. |
| 1.84 <u>Stipulated Sum (Fixed Price/Lump Sum)</u> | “Stipulated Sum (Fixed Price/Lump Sum)” means the complete and total amount the Construction Contractor is obligated to complete the Work barring unforeseen conditions, Agency change to the Scope of Work, or other circumstances set forth in the Contract. |
| 1.85 <u>Subconsultant</u> | “Subconsultant” as defined in A.R.S. § 41-2571, means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has a direct Contract with Design Professional or another Subconsultant to perform a portion of the Work. |
| 1.86 <u>Subcontract</u> | “Subcontract” means any contract, express or implied, between Contractor and another party or between a Subcontractor and/or Subconsultant and another party delegating or assigning, in whole or in part, the making or furnishing of any Materials, the performing of any Services, or the carrying out of any other aspect of the Work. |
| 1.87 <u>Subcontractor</u> | “Subcontractor” as defined in A.R.S. § 41-2503(38), is “... a person who contracts to perform Work or render service to ... [C]ontractor or to another [S]ubcontractor as a part of a Contract with an Agency governmental unit . . .” The Contract is to be construed as “a |



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| | Contract with a Agency governmental unit” for purposes of the definition. Any Person carrying out an element of the Work who is neither a Contractor nor a representative of the State is a Subcontractor from the moment that Person first carries out that element of the Work, regardless of whether a Contract exists between that Person and the Contractor, then or subsequently. |
| 1.88 Submittal Register | “Submittal Register” means a list provided by Construction Contractor of all items to be furnished for review and approval by Design Professional and/or Agency and as identified in the Contract Documents including submittal dates. |
| 1.89 Substantial Completion | Substantial Completion” means the date determined and certified by the Design Professional’s and/or Agency Designated Representative’s signature, when the Work, or a designated portion thereof, is sufficiently complete, in accordance with the Contract, so as to be operational, fit for the use intended, and so the Agency may occupy the Work. |
| 1.90 Unconditional Waiver of Lien | “Unconditional Waiver of Lien” has the meaning defined in A.R.S. §33-1008. An Unconditional Waiver of Lien on Progress Payment is “where the claimant is required to execute a waiver and release in exchange for or in order to induce the payment of a Progress Payment and the claimant asserts in the waiver that it has been paid the Progress Payment”. Unconditional Waiver of Lien on Final Payment is “where the claimant is required to execute a waiver and release in exchange for or in order to induce payment of a Final Payment and the claimant asserts in the waiver that it has been paid the Final Payment”. |
| 1.91 Uniform Terms and Conditions | The “Uniform Terms and General Conditions” are made up of this document and whichever of the <u>Appendices</u> are indicated in the <u>Special Terms and General Conditions</u> as being applicable. |
| 1.92 Unit Price Work | “Unit Price Work” means the Work, or a portion of the Work, paid for based on incremental units of measurement. |
| 1.93 Work | “Work” means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor(s)’s obligations and duties under the Contract in conformance with the Contract and applicable laws. "Work" shall refer to any and all authorized Basic and/or Additional Work. |
| 1.94 Progress Schedule | “Progress Schedule” means the continually updated time Schedule prepared and monitored by Construction Contractor that accurately indicates all necessary appropriate revisions as required by the conditions of the Work and the Project while maintaining a concise comparison to the overall Schedule. |
| 2. CONTRACT INTERPRETATION | |
| 2.1 Arizona Law 2.1 Arizona Law | The Contract is governed by, and is to be interpreted in accordance with, the laws of the State of Arizona, including, but not limited to the Arizona Procurement Code, without consideration of conflict of laws principles. |
| 2.2 Contract Order of Precedence | <ol style="list-style-type: none"> 1) COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary and all provisions are to be interpreted as a single, united contract. If certain Work, requirements, obligations, or duties are set out only in one but not in another, Construction Contractor shall carry out the Work as though the relevant Work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results. 2) CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, Contractor shall i) provide the better quality |



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| | <p>or greater quantity of Work or ii) comply with the more stringent requirements. If the foregoing requirements do not resolve the issue of inconsistency, conflict, or ambiguity, then the following contract documents and their provisions are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions within the same sub-section below, the document or provision with the latest date prevails; information being identified in one document but not in another is not to be considered a conflict or inconsistency:</p> <ul style="list-style-type: none"> a) Change Orders, in reverse chronological order; b) Solicitation Documents, in this order: <ul style="list-style-type: none"> i) Special Terms and Conditions; ii) Exhibits to the Special Terms and Conditions; iii) Federal Terms and Conditions (for any Projects with federal funding) iv) Uniform Terms and Conditions; v) Scope of Work; vi) Exhibits to the Scope of Work; and vii) Any other documents referenced or included in the Solicitation; c) Accepted Offer d) Any Contract created as a result of an IGA and Project Proposal including Task Orders, Attachments, Exhibits, and Schedules created as part of, or under any Contract; e) Design Requirements; <ul style="list-style-type: none"> i) Specifications ii) Drawings (given dimensions take precedence over scaled measurements); f) Notice to Proceed; and g) Schedule |
| <p>2.3 Implied Terms</p> | <p>Each provision of law and any terms required by law to be in the Contract are a part of the Contract as if fully stated in it.</p> |
| <p>2.4 References to Statute</p> | <p>The above Definitions of Terms includes statutory language for convenience. If any definition in the Contract references a statute without modification, the current statutory language, not the stated definition in the Contract, will take priority in any interpretation of the Contract.</p> |
| <p>2.5 Usage</p> | <ul style="list-style-type: none"> 1) Where the Contract: <ul style="list-style-type: none"> a) Assigns obligations to the Design Professional, any reference to "Design Professional" is to be construed to be a reference to "Design Professional" and all Subconsultants and/or Subcontractors whether or not they are first-tier, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Design Professional's and the Subconsultant's and/or Subcontractor's respective agents, representatives, and employees" in every instance unless the context plainly requires that it is a reference only to Design Professional as apart from Subconsultants and/or Subcontractors; b) Uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [<i>Definitions</i>]. For clarity of intent, any right given to State using "State may" or a like construction, denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that the State's discretion extends to whatever is in the best interest of the State; |



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| | <ul style="list-style-type: none"> c) Uses the imperative “shall” with respect to a party’s actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [Definitions]. Conversely, the phrase “shall not” is to be interpreted as an imperative prohibition; d) Uses the term “must” with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written “must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes” in every instance; e) Uses the term “might” with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and f) Uses the term “will” or the phrases “is to be” or “are to be” with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that “shall” is either unnecessary or irrelevant in that instance. |
| <p>2.6 <u>Independent Contractor</u></p> | <p>Design Professional is an Independent Contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.</p> |
| <p>2.7 <u>Severability</u></p> | <p>The provisions of this Contract are severable to the extent allowed under Arizona contract law. Any term or condition deemed or adjudged illegal or invalid is thereby stricken from the Contract and will not affect any other term or condition of the Contract.</p> |
| <p>2.8 <u>Complete Integration</u></p> | <p>The Contract, including any documents incorporated into the Contract by reference and any authorized Contract Amendments and Change Orders, is intended by the parties to be a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing can independently bind the Agency to changes to the Contract. The Agency may avoid any unauthorized modifications to the Contract.</p> |
| <p>2.9 <u>No Waiver of Rights</u></p> | <p>Either party’s failure to insist on strict performance of any term or condition of the Contract is not, and is not to be construed as being, nor will it be deemed, a waiver of that term or condition or a bar to, or diminishment of the right of, subsequent enforcement of any term or condition.</p> |
| <p>3. CONTRACT ADMINISTRATION AND OPERATION</p> | |
| <p>3.1 <u>Term of Contract</u> 3.1 <u>Term of Contract</u></p> | <p>The term of the Contract will commence on the date indicated on the Acceptance and continue for the period specified in the <u>Special Terms and General Conditions</u> unless canceled, terminated, or permissibly extended. If the <u>Special Terms and General Conditions</u> do not specify a period, then the Contract will remain in force for that period required for Final Completion of the Work for the Project, including required extensions thereto, unless discontinued by any of the several provisions contained elsewhere in the Contract, but no longer than 5 years total. Agency has no obligation to extend or renew the Contract past the initial term.</p> |



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| <p>3.2 Contract Extensions</p> | <p>Agency may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the period specified in the Special Terms and Conditions. If the Special Terms and Conditions do not specify a period, then a reasonable period of time, but no more than an aggregate of 5 (five) years. Nothing herein shall negate Contractor’s obligation to continuously perform the Work with adequate manpower and due diligence.</p> |
| <p>3.3 Notices and Correspondence</p> | <p>1) TO DESIGN PROFESSIONAL. Unless stated otherwise in the <u>Special Terms and General Conditions</u>, Agency shall:</p> <ul style="list-style-type: none"> a) Address all Contract correspondence other than formal notices to the email address indicated as “Default for Type” for “General Mailing Address” in Design Professional’s corresponding APP Vendor Profile; and b) Address any required notices to Design Professional to the “Contact Name and Title” at the “Mailing Address” indicated in the Contract Documents. <p>2) TO AGENCY. Unless stated otherwise in the Special Terms and General Conditions, Design Professional shall:</p> <ul style="list-style-type: none"> a) Address all Contract correspondence and formal notices to the Agency Procurement Officer indicated in Exhibit A “Agreement.” b) CHANGES. Agency may change the designated Procurement Officer, update contact information, or change the applicable mailing address. <p>3) Notice is deemed served when emailed or mailed.</p> |
| <p>3.4 Contractor Performance Evaluation</p> | <p>The Agency may evaluate the Contractor’s performance during the progress of the Work, at completion of a phase of Work for the Project, completion of the Work, or any of the foregoing. The Agency shall retain the evaluation(s) in the procurement file. The Agency will use the evaluation(s) in determining the responsibility of the Contractor for any award of a future contract for the next five (5) years. If the Contractor or any of the Contractor’s Subconsultants and/or Subcontractors commit a breach of the contract for the project, the Agency will use the responsibility analysis for future projects for five (5) years after the date of breach of the Contractor’s Subconsultants and/or Subcontractors (where applicable) for future contract awards with the Agency or subcontracts on Agency Projects. Contractor may comment or take exception to any rating in accordance with the Agency’s protest policies.</p> |
| <p>3.5 Signing of Contract Amendments</p> | <p>1) Counter-signature – or “approval” in APP, in the case of a Change Order – is not required to give effect if the Contract Amendment only covers either:</p> <ul style="list-style-type: none"> a) Extension of the term of the Contract within the maximum aggregate term; b) Revision to Procurement Officer appointment or contact information; or c) Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other Material aspect of the Contract. <p>2) In every case other than those listed in a), b), and c) above, the signatures of all required parties – or “approval” in APP, in the case of a Change Order – is necessary to give it effect.</p> <p>3) If the initial scope of the Project is changed materially by the Agency, the compensation will be equitably adjusted through negotiation upon execution of a Contract Amendment.</p> |
| <p>3.6 Click-Through Terms and Conditions</p> | <p>Unless expressly stated otherwise in the <u>Special Terms and Conditions</u>, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an “Electronic Ordering System”), the parties</p> |



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| | <p>acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of Agency do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized Agency user is required to “click through” or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized Agency user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.</p> |
| <p>3.7 <u>Books and Records</u></p> | <ol style="list-style-type: none"> 1) RETAIN RECORDS. By A.R.S. § 41-2548(B), Design Professional shall retain and shall contractually require each Subconsultant and/or Subcontractor to retain books and records relating for any Cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute. 2) RIGHT TO AUDIT. The retained books and records are subject to audit by Agency during that period. By A.R.S. § § 35-214 and 41-2548(B), Design Professional shall retain and shall contractually require each Subconsultant and/or Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by Agency during that period. 3) AUDITING. Design Professional or Subconsultant and/or Subcontractor shall either make all such books and records under subparagraphs 2) and 3) available to Agency at all reasonable times or produce the records at a designated Agency office on Agency’s demand, the choice of which being at Agency’s discretion. For the purpose of this paragraph, “reasonable times” are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. Any Person who obstructs or impairs an audit being conducted or about to be conducted in relation to any contract or subcontract with the State may be found guilty of a class 5 felony under A.R.S. § 35-215. |
| <p>3.8 <u>Design Professional Licenses and Registration</u></p> | <p>Design Professional and all Subconsultants and/or Subcontractors, persons, firms and/or entities in the service of Design Professional shall maintain current licenses, registrations, including but not limited to registration under the Arizona Board of Technical Registration, and permits required for the operation of its business in general, for its operations under the Contract, and, unless expressly stated otherwise in the <u>Special Terms and General Conditions</u>, for the Work itself.</p> |
| <p>3.9 <u>Ownership of Intellectual Property</u></p> | <ol style="list-style-type: none"> 1) PRE-EXISTING MATERIAL. All pre-existing software and other Materials developed or otherwise obtained by or for Design Professional or its affiliates independently of the Contract are not part of the Work instruments of service to which rights are granted state under subparagraph 3) below, and will remain the exclusive property of Design Professional, provided that: <ol style="list-style-type: none"> a) any derivative Works of such pre-existing Material or elements thereof that are created pursuant to the Contract are part of the Work instruments set forth below; b) any elements of derivative Work of such pre-existing Material that was not created pursuant to the Contract are not part of that Work instrument; and |



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- c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Design Professional's or its affiliates' ownership of such pre-existing Materials.
- 2) JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
 - 3) DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Special Terms and Conditions, the Contract does not preclude Design Professional from developing competing Materials outside the Contract, irrespective of any similarity to Materials delivered or to be delivered to Agency hereunder.
 - 4) OWNERSHIP AND USE OF DOCUMENTS. The Design Professional agrees all Project information, including but not limited to, notes, plans, Drawings, Specification photos, studies, computer programs, Schedules, technical reports, prototypes and AutoCAD design backgrounds, or other Work instruments produced by the Design Professional under this Contract necessary to complete the Work, are the property of the Agency. The Design Professional agrees to continue to supply the Project AutoCAD design backgrounds to the Agency for other projects outside the scope of this Contract, as requested by the Agency. The Design Professional shall also provide the Agency high quality copies on Agency-approved media of updated drawings and reproducible copies of specifications as specified. The cost of such copies will be reimbursed by the Agency to the Design Professional as a Reimbursable Expense. The Design Professional may not provide copies of or otherwise use the Work instruments in any format for the Project without the express prior written approval of the Agency.
 - 5) The Design Professional agrees that items such as plans, Drawings, Specifications photos, studies, computer programs, Schedules, technical reports, or other Work products which is/are specified to be delivered under this Contract, and which is/are to be paid for by the Agency, is/are subject to the rights of the Agency in effect on the date of this Contract. These rights include the right to use, duplicate and disclose such items in whole or in part, in any manner and for whatever purpose, and to have others do so. The Design Professional shall not copyright or otherwise claim Ownership of the Work instruments of service for the Project. The Design Professional shall include in its Subconsultants and/or Subcontractors Contracts appropriate provisions to achieve the purpose of this section.
 - 6) Design Professional shall give Agency full ownership of, including any and all necessary permissions to use, every aspect of the Work, unless explicitly excluded by law or contract, including the ability to create new structures based on the design Specifications and Drawings.
 - 7) In the event of any dispute with the Design Professional regarding any breach or default of this Contract, the Agency shall have the right to possess and use any and all plans, Specifications, Drawings, documentation, reproduction, Design Requirements, and any other Materials necessary to complete the project.
 - 8) Notwithstanding anything to the contrary, Agency, at all times, shall have unlimited rights to copy and use in connection with the Project any and all Design Requirements and/or Materials prepared by Design Professional for the Project at no additional Cost to Agency, regardless of degree of completion. Design Professional also grants to Agency a royalty free license to all such any and all Design Requirements and/or



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| | <p>Materials to which Design Professional may assert any rights under patent or copyright laws.</p> <ol style="list-style-type: none"> a) Design Professional hereby assigns outright and exclusively to Agency all copyrights to any and all Design Requirements and/or Materials created for, or used in, the Project. b) Design Professional, as part of its agreements with any Subcontractors and/or Subconsultants, will secure such license and use rights from each such entity to all copyrights to any and all Design Requirements and/or Materials created for, or used in, the Project, and shall defend, indemnify and hold Agency harmless from any claims by such entities for copyright or patent infringement. |
| <p>3.10 <u>Subcontracts and Subconsultants</u></p> | <ol style="list-style-type: none"> 1) INITIAL LIST. Prior to Contract execution, Design Professional’s candidate Subconsultants and Subcontractors were identified in their Offer if required. 2) ADDITIONAL NAMES. Design Professional shall not enter into a Subcontract without first obtaining Procurement Officer’s written consent with any prospective Subcontractor or Subconsultant that (a) was not listed at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case (a) or (b), Design Professional shall submit a written request sufficiently in advance of the need date for those Materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it. 3) FLOW-DOWN. Design Professional shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract or Subconsultant agreement by inclusion or by reference. Subconsultants and/or Subcontractors shall incorporate the provisions, terms, and conditions of the Contract into their Subcontracts and Subconsultant agreements. When making any post-execution consent requests, Design Professional shall include its warrant that it will do the same for the pending Subcontractor and/or Subconsultant covered by the request. Entering into Subcontract and/or Subconsultant agreement will not relieve Design Professional of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the Work of Subconsultants and/or Subcontractors. Nothing contained in any Subcontract and/or Subconsultant agreement will create or is to be construed as creating any contractual relationship between Agency and the Subconsultant. |
| <p>3.11 <u>Non-Discrimination</u></p> | <p>Contractor shall comply with [Arizona] State Executive Order No. 2023-01, 2009-09 and all other applicable federal and state laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.</p> |
| <p>3.12 <u>E-Verify Requirements</u></p> | <p>As required by A.R.S. § 41-4401, Design Professional and each Subconsultant and/or Subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Design Professional and each Subconsultant and/or Subcontractor acknowledge that under A.R.S. § 41-4401, Agency retains the legal right to inspect the papers of any Design Professional or Subconsultant and/or Subcontractor employee who Works under the Contract to ensure that Design Professional or Subconsultant and/or Subcontractor employee is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract.</p> |



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| <p>3.13 Offshore Performance of Certain Work Prohibited</p> | <p>Contractor shall only perform those portions of the Work that directly serve the Agency or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Specifications or the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to Work performed by Subconsultants and/or Subcontractors at all tiers.</p> |
| <p>3.14 Other Contractors</p> | <ol style="list-style-type: none"> 1) Agency may undertake with its own forces or award other contracts to the same or Other Contractors for additional or related Work. 2) In such cases, Contractor shall cooperate fully with Agency’s employees and such Other Contractors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its Work to the related Work by others. 3) Where the Contract requires handing-off Contractor’s Work to others, Contractor shall cooperate as Agency instructs regarding the necessary transfer of its Work product, services, or records to Agency or the Other Contractors. 4) Contractor shall not commit or permit any act that interferes with the Agency’s or Other Contractor’s performance of their Work, provided that, Agency shall enforce the foregoing section equitably among all its Contractors so as not impose an unreasonable burden on any one of them. 5) Agency shall be reimbursed by Contractor for Costs incurred by Agency which are payable to an Agency separate Contractor because of delays, improperly timed activities, or defective design or construction by Contractor. Agency will equitably adjust the Contract by Change Order for Costs incurred by Contractor because of delays, improperly timed activities, damage to the Work or defective design or construction by an Agency separate Contractor. 6) Should the Work be interrupted or hindered by the Agency or Contractor, the Contractor shall be entitled to an extension of time pursuant to the paragraph “Change Orders” in an amount equal to such interruption or hindrance but such interruption or hindrance shall not constitute a claim for damages nor for loss of anticipated profits by the Contractor. |
| <p>3.15 Work on State Premises</p> | <ol style="list-style-type: none"> 1) COMPLIANCE WITH RULES. Construction Contractor is responsible for ensuring that its personnel comply with Agency’s rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State’s grounds or in its facilities. Construction Contractor shall comply with State security requirements in order to deliver, install, or perform at that particular location without entitlement to any additional compensation or additional time for performance even if those particular requirements are not expressly stated in the Contract. 2) PROTECTION OF GROUNDS AND FACILITIES. Construction Contractor shall deliver and perform the Services without damaging any State grounds or facilities. Construction Contractor shall promptly repair or replace any damage caused by Construction Contractor, or any of its Subcontractors or Subconsultants, at its own expense, subject to whatever instructions and restrictions Agency needs to make to prevent inconvenience or disruption of operations. If Construction Contractor fails to make the necessary repairs or replacements in a timely manner, Agency will be entitled to exercise its remedies available under the Contract (including the Design Professional Services Contract.) |



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| 3.16 Background Checks | <ol style="list-style-type: none"> 1) Each of Contractor personnel who is performing Work with information technology, correctional facilities, proprietary and sensitive data or confidential or access-restricted or in an Agency defined secured area, or as otherwise requested by Agency, must undergo the security clearance and background check procedure, which may include fingerprinting. 2) Contractor shall obtain and pay for the security clearance and background check and shall incorporate Cost in the Contractor offer submitted to perform the Work. 3) Contractor personnel who will have administrator privileges on a State network must additionally provide identity and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security. |
| 3.17 Advertising, Publishing and Promotion of Contract | Contractor shall not advertise, promote, or otherwise use information concerning the Contract for commercial benefit without the prior written approval of Procurement Officer. The Procurement Officer may withhold approval at his or her discretion. |
| 3.18 Inspection and Testing | By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own Cost, any finished goods, work-in-progress, components, or unfinished materials that are supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all Costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things. |

4. COSTS AND PAYMENTS

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| 4.1 Additional work 4.1 Additional work | <ol style="list-style-type: none"> 1) Compensation for Additional Work will be in accordance with basis for compensation established in the Contract. 2) Compensation for Additional Services will be determined either on a Standard Hourly Rate with a Not-to-Exceed-Maximum-Amount ("Standard Hourly Rate") fee basis in Contract or as a Stipulated Sum fee basis, as amended to the Contract, through Contract Amendment or Change Order, by the Procurement Officer. 3) Before Additional Work may be performed or additional Costs incurred beyond the specified approved Contract for the Project, both the Agency and Construction Contractor must execute a written Contract Amendment or Change Order. 4) The Agency is not responsible for actions of the Construction Contractor or its Subconsultants and/or Subcontractors for any Costs incurred by the Construction Contractor or its Subconsultants and/or Subcontractors relating to Additional Work prior to the execution of a Contract Amendment or Change Order. 5) Any Additional Work must be performed within the time period established in the Contract Amendment or Change Order for the Project. 6) The Agency shall only approve of requests for Additional Work due to: <ol style="list-style-type: none"> a) need for additional design; b) acts or omissions of the Agency; c) significant changes to the Project; or d) need to provide services due to the default of another Contractor. |
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| <p>4.2 Applicable Taxes</p> | <ol style="list-style-type: none">1) CONTRACTOR TO PAY ALL TAXES. Agency is subject to Arizona Transaction Privilege Tax (TPT). Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractors' responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from Agency will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the <u>Commercial Document</u>, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.2) TAX INDEMNITY. Contractor shall hold Agency harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well as any related Costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance. |
| <p>4.3 Application for Progress Payment, Contractor</p> | <ol style="list-style-type: none">1) The Construction Contractor shall submit to the Agency an itemized Application for Payment completed and accepted in accordance with the Schedule of Values. Such application shall be supported by such data substantiating the Construction Contractor's right to payment as the Agency requires below, and reflecting retainage, if applicable.2) The Application for Payment (Exhibit H) shall:<ol style="list-style-type: none">a) be an accurate reflection of the progress of the Work;b) contain line items based on the Schedule of Values;c) bear the notarized signature of Construction Contractor;d) bear the signature of the Design Professional if contracted to perform Construction Phase Services;e) only be paid after approval by the Agency Designated Representative; andf) not include Subcontracted items or any other items for which Construction Contractor does not intend to pay.3) Unless otherwise stated in the Special Terms and Conditions, the Construction Contractor is required to include the following, at a minimum:<ol style="list-style-type: none">a) Construction Contractor Name and Address;b) Subcontractor's Name, Remit to Address and Contact Information, andc) All backup documentation to Application for Payment, detailed prior to showing subtotals for each item for Construction Contractor and Subcontractor (e.g., labor detail, Materials, and tax listed in separate line items).4) Applications for Payment may include requests for payment on account of changes in the Work which have been properly authorized and executed by the Agency in Change Orders.5) Applications for Payment may not include requests for payment of amounts the Construction Contractor does not intend to pay to a Subcontractor or Material supplier because of a dispute or other reason.6) Applications for payment shall be made on account of Materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work.<ol style="list-style-type: none">a) If approved in advance by the Agency, payment may similarly be made for Materials and equipment suitably stored off the Site at a location agreed upon in writing in accordance with Arizona General Accounting Office policies. |



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| | <p>b) Payment for Materials and equipment stored on or off the Site shall be conditioned upon compliance by the Construction Contractor with procedures to establish the Agency's title to such Materials and equipment or otherwise protect the Agency's interest, and shall include applicable insurance, storage and transportation to the Site for such Materials and equipment stored off the Site.</p> <p>7) The Construction Contractor further warrants that upon submittal of any Progress Application for Payment all Work for which Applications for Payment have been previously issued and payments received from the Agency shall, to the best of the Construction Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Construction Contractor, Subcontractors, Material suppliers, or other persons or entities making a claim by reason of having provided labor, Materials, and equipment relating to the Work by also submitting a Conditional Waiver of Lien form with the Application for Payment.</p> <p>8) At the time of submittal for payment of retainage, if requested by the Construction Contractor prior to the Final Application for Payment, and at Final Application for Payment, Construction Contractor shall provide the Agency with all items contained in Contractor Project Closeout- Exhibit M.</p> <p>9) Agency shall not accept improper or incorrect Application for Payment until corrections have been made.</p> <p>10) A Progress Payment shall not be made to Construction Contractor until the Application for Payment has been certified.</p> <p>11) Final Payment shall not be made to Construction Contractor until a Final Completion Certificate has been issued.</p> |
| <p>4.4 <u>Application for Payment Certification by Design Professional</u></p> | <p>The Design Professional will review and certify the amounts due to the Contractor and will issue Certificates for Payment in such amounts based on the Design Professional's inspections, observations and evaluations of the Construction Contractor's Applications for Payment for the Work accepted and in conformance to the Contract.</p> |
| <p>4.5 <u>Automated Clearing House</u></p> | <p>Agency may pay invoices through an Automated Clearing House (ACH). In order to receive payments in this manner, Design Professional must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at: https://gao.az.gov/afis/vendor-information</p> |
| <p>4.6 <u>Availability of Funds</u></p> | <p>By A.R.S. § 35-154, every Agency payment obligation under the Contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the Contract, Agency may terminate the Contract at the end of the period for which funds are available, or, at Agency's discretion, allow appropriate amendment to the Contract. No liability will accrue to Agency if it exercises the foregoing right or discretion, and Agency will have no obligation or liability for any future payments or for any damages as a result of having exercised it.</p> |
| <p>4.7 <u>Basis of Compensation; Design Professional</u></p> | <p>1) The Agency will compensate the Design Professional monthly upon the Agency acceptance described in the approved Contract, as it may be subsequently amended, upon receipt of an accurate monthly billing statement providing evidence of expenses.</p> <p>2) No advance payment will be made to the Design Professional prior to rendering services.</p> |



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| | <p>3) Payments for Basic Work will be made monthly in proportion to services performed within each phase of services as reasonably determined by Agency. Agency shall have the right to review and inspect any and all records including, but not limited to, time sheets and work product of Design Professional, in order to determine whether the amount requested is accurate. Payment applications will be reviewed by the Agency to ensure the following information is included and correct or Agency will not approve the payment:</p> <ul style="list-style-type: none">a) Figures on the payment application shall be accurately calculated;b) Labor rates, reimbursables, fixed fee, subconsultant rates, overhead and fringe benefits listed on the payment application shall be consistent with the terms of the Contract;c) Charges included on the payment application shall be for Work included in the Contract or an amendment to the Contract, and shall be tied directly to the tasks outlined in the Contract;d) Design Professional principals shall bill at staff rates when acting as staff. Principals may only bill at the hourly rate of Principals when acting in that capacity. The Design Professional shall provide documentation with each payment request that clearly indicates how that individual's time is allocated and the justification for that allocation;e) Subconsultant is an approved subconsultant in the Contract or an amendment to the Contract and any subconsultant approved for a specific discipline is being paid when Work in that discipline is performed;f) Reimbursable Expenses claimed are permitted by the terms of the Contract and supporting documentation is provided with the invoice; andg) If invoice has item(s) in dispute. Design Professional may resubmit an invoice for the undisputed amount or wait for payment until the dispute has been resolved.h) Design Professional shall not be entitled to receive payment until they have provided Agency with conditional and/or unconditional lien waivers, including waivers from Subconsultants, along with a detailed description of services and such other documents showing compliance with the terms of the contract as Agency may reasonably require in connection with requests for payment. |
| <p>4.8 <u>Contracted Labor Rate</u></p> | <ul style="list-style-type: none">1) The contracted labor rates are the fully-burdened and marked-up billing rates for Construction Contractor's labor Exhibit C2) The rates are deemed to be inclusive of the actual gross wages plus all:<ul style="list-style-type: none">a) Applicable payroll taxes, non-payroll employer burden, workers' compensation contributions and health and welfare benefit contributions;b) Retirement or other pension contributions, vacation, sick time or other paid leave allowances and the like;c) Required home office support, corporate or subordinate licenses or registrations, corporate insurance, professional association fees, advertising, time and travel by any of Construction Contractor personnel other than billable personnel and any bonuses or other incentives for all personnel (including billable Personnel);d) Insurance coverages to be provided by Construction Contractor under the Contract; ande) Profit. |



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| | <p>3) The rates are not subject to overtime or other premium time unless expressly stated otherwise.</p> <p>4) Prior to Construction Contractor finalization of Subconsultants and/or Subcontractors contracts, the Agency shall review and approve Subconsultants and/or Subcontractors hourly rates.</p> |
| <p>4.9 Delay</p> | <p>1) Pursuant to A.R.S. § 41-2617, if the Construction Contractor incurs damages due to a delay for which the Agency and the Construction Contractor agree is (a) the fault of the Agency, (b) unreasonable under the circumstances, and (c) was not already contemplated by the terms of the agreement, then the Agency and the Construction Contractor may negotiate for the recovery of those damages. In this case, if the Construction Contractor sustains damages, which could not have been avoided by the judicious handling of forces, equipment and materials; or by reasonable revision in the Construction Contractor’s schedule of operation, the compensation for such damages will be negotiated. The Construction Contractor shall notify the Agency of the condition in writing by the next work day. Failure to notify the Agency within this time may be just cause to reject any claims for such damages.</p> <p>2) DELAYS THAT RESULT IN A MATERIAL CHANGE TO THE DATE OF SUBSTANTIAL COMPLETION MAY RESULT IN LIQUIDATED DAMAGES. Agency may assess Liquidated Damages (as detailed in the Special Terms and General Conditions) for unexcused and/or unauthorized delays, caused by the Construction Contractor, or any of its Subconsultants or Subcontractors, that result in a material change to the date of Substantial Completion of the Work. Construction Contractor is responsible for any reasonably foreseeable causes of delay.</p> <p>3) TIME EXTENSION. Within one business day after the Construction Contractor should have reasonably known of the occurrence prompting the request for an extension of time, the Construction Contractor must deliver a preliminary written notice to the Agency describing the general nature of the request. Within a reasonable time after the preliminary notice, the Construction Contractor must provide the Agency written supporting documentation stating all known time extensions to which the Construction Contractor is entitled. Construction Contractor may submit written time extension requests to the Agency for approval if the Construction Contractor is delayed through no fault of its own.</p> <p>4) CONCURRENT DELAYS. To the extent the Construction Contractor is entitled to an extension of time due to an Excusable Delay but the performance of the Work would have been suspended, delayed or interrupted by the fault or neglect of the Construction Contractor and/or any of its subcontractors/subconsultants, and suppliers, the Construction Contractor shall not be entitled to any additional Costs for the period of such concurrency.</p> <p>5) CHANGE ORDER. Any requests for time extensions must be approved by Agency and/or Design Professional through the use of a Change Order.</p> |
| <p>4.10 Equipment Rental</p> | <p>Construction Contractor rental of construction equipment to perform the Work shall be recorded and billed to the Agency for the nearest one-half hour and shall cease when equipment is no longer necessary for the Work. Billing shall include sales tax, the Cost of transportation, loading, unloading, and dismantling and removal thereof in accordance with the rental agreement terms and Agency approved Construction Contractor markup for overhead and profit. Rates for Construction Contractor -owned equipment shall be approved by Agency prior to equipment use. Construction Contractor shall not charge</p> |



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| | Agency for equipment that is inoperable due to breakdown or used for Work not related to the Project. |
| <p>4.11 <u>Invoicing Requirements</u></p> | <p>1) Design Professional shall only submit invoice that match the prices in the Contract, including the pricing in any authorized Change Order or Contract Amendment.</p> <p>2) Design Professional shall comply with the following requirements for the submittal of invoices to the Agency. The Agency may, in its discretion, choose to deny all or some of an invoice due to the Design Professional's failure to fully comport invoices to these requirements:</p> <ul style="list-style-type: none"> a) TRAVEL. Travel Costs will be reimbursed according to the policies and procedures set by the State of Arizona's General Accounting Office as specified in the Contract. See http://www.gao.az.gov/travel/ for Current Policies. Any anticipated travel Costs should be detailed as a line item in Design Professional's fee proposal. b) LODGING, SUBSISTENCE, AND MILEAGE. Design Professional and Agency must agree upon any lodging and subsistence Costs before these Costs are incurred for the Design Professional to receive reimbursement for these Costs. If lodging and subsistence Costs are incurred fifty (50) or more miles from the Design Professional primary place of business, then the invoice must include all receipts associated with these Costs for full reimbursement. Design Professional will only be reimbursed for mileage for travel fifty (50) or more miles from the Design Professional's primary place of business. c) PREVIOUS MONTH. Design Professional shall only submit invoices for authorized and accepted Work, and Reimbursable Expenses for the previous month less any applicable penalties. d) INVOICES MUST BE VERIFIED. Design Professional shall bear the primary responsibility for the validity of any and all invoices, and shall certify that its invoices have been examined and that the contents therein are accurate and consistent with the Design Professional's books of account. e) INVOICE REQUIREMENTS STRICTLY ENFORCED. Agency reserves the right to reject, or partially pay, any invoices that are improperly addressed, or contain inaccurate or incomplete information. Agency is not responsible for any financing or other charges due to payments that are late due to Design Professional error. f) FINAL INVOICE. Design Professional shall submit an invoice that contains a clear designation that it is the "Final" invoice when the Work is complete. Agency is under no obligation to release payment on a Final Invoice until the Design Professional has fully documented the final completion of the Work and Agency has reviewed and agreed with the amount due on the Final Invoice. |
| <p>4.12 <u>Interest</u></p> | <p>Payments to Design Professional are issued pursuant to A.R.S. § 35-342. If payments to Design Professional are allowable and 30 days past due, interest shall accrue at the rate detailed in A.R.S. § 44-1201.</p> |
| <p>4.13 <u>Payment</u></p> | <p>1) PAYMENT NOT ACCEPTANCE. Agency payment of any invoice or Application for Payment shall not be construed to be acceptance of the Work.</p> <p>2) PAYMENT DEADLINE. Agency shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Contract, Agency shall make payment in full for Materials that have been delivered and accepted and Work that has been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true:</p> |



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| | <p>a) All of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Work being invoiced have been performed and accepted; and</p> <p>b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Contract and reasonably requested by the Agency, provided that, the Agency will not make or be liable for any payments to Contractor until Contractor has registered properly in APP and provided a current IRS Form W-9 to Agency unless excused by law from providing one.</p> <p>3) PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, Agency shall make payment to Contractor under the federal tax identifier provided.</p> |
| <p>4.14 Project Suspension by Agency</p> | <p>If the Project is suspended or abandoned in whole or in part for more than six (6) months by the Agency, the Design Professional will be compensated for only the following: all Work performed prior to receipt of written notice from the Agency of such suspension or abandonment together with Reimbursable Expenses then due. The Agency will not be liable for any additional expenses or any damages, including but not limited to consequential damages. If the Project is resumed after having been suspended for more than six (6) months, the Design Professional's compensation may be equitably adjusted through negotiation. If the parties cannot agree on an adjustment, Agency may terminate the Agreement.</p> |
| <p>4.15 Recovery of Overpayment</p> | <p>If Agency determines that an over-payment has been made to Design Professional on any prior invoice, it shall inform Design Professional of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Design Professional.</p> |
| <p>4.16 Reimbursable Expenses</p> | <p>Reimbursable expenses may be billed in accordance with Uniform Terms and General Conditions for amounts expended in the interest of the Project. Design Professional shall not exceed the approved reimbursement amount without prior written approval of the Agency through a Contract Amendment.</p> |
| <p>4.17 Standard Hourly Rate Basis for Work</p> | <p>For Projects compensated on a Standard Hourly Rate basis, the invoice statement for all Applications for Payment must show the name of all employees and Subconsultants and/or Subcontractors charging time to the Project, the amount of time billed, the fully burdened hourly rates, and the activities performed by each person listed. If requested by Agency, payroll time sheets and any other documents reasonably requested by Agency to verify amounts requested, shall be provided.</p> |
| <p>4.18 Stipulated Sum (Fixed Price/Lump Sum) Basis for Work</p> | <p>For Projects compensated on a Stipulated Sum basis, the invoice statement for Application for Payment must include a brief summary of the progress and completion of tasks in accordance with the Work to substantiate the percentage of completion of Work by phase during the time period covered by the Application for Payment. Any Costs in excess of approved maximum not to exceed Contract amount incurred prior to Agency's written consent will not be paid unless Costs were incurred at the Agency's direction.</p> |
| <p>4.19 Notification of Payments</p> | <p>Any Design Professional, Subconsultant, or Subcontractor may notify the Agency in writing requesting that it be notified by the Agency in writing within five days from payment of each progress payment made to a Construction Contractor. If a request is made to the Agency as described in this paragraph, the request remains in effect for the duration of the requestor's Work related to this Contract pursuant to A.R.S. § 41-2577. Note that this paragraph in no way limits the Design Professional's and/or Construction Contractor's ability to withhold any</p> |



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application or certification due to issues related to the Work of a Design Professional, Subconsultant, or Subcontractor as described in A.R.S. § 41-2577(D).

5. CONTRACT CHANGES

5.1 [Assignments and Delegations](#)
5.1 [Assignments and Delegations](#)

- 1) NOTICE AND ASSIGNMENT OF TRANSFER OF OWNERSHIP. In additions to Sections 5.2 and 5.3 below, the Agency will require immediate notice and explicit assignment, pursuant to this Section, of any change to the underlying ownership of the Contractor. For the purpose of this Section, a change in ownership is defined by the transfer of any ownership interest or control of fifty percent or more of the Contractor, regardless of the form under which the Contractor conducts its business.
- 2) IN WHOLE. Contractor shall not assign in whole or in part its rights or delegate in whole or in part its duties under the Contract without (a) notifying the Procurement Officer in advance and (b) obtaining the Procurement Officer’s prior written consent, which the Procurement Officer may withhold at his or her discretion. If Contractor’s proposed assignment or delegation stems from a split, sale, acquisition, or any other change in control, then no such consent will be given in any event without the assignee or delegate giving the Agency satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when Agency first awarded it the Contract. Such determinations shall be made by the Procurement Officer in its sole discretion.

5.2 [Contract Amendments](#)

The Contract is issued for Agency under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract’s general scope.

5.3 [Unauthorized Contract Amendments or Orders are Void](#)

Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Design Professional will be void and without effect; Design Professional will not be entitled to any claim made under the Contract based on any such purported changes. The Design Professional is on notice that any course of conduct dealings cannot bind the Agency to any changes to the Contract; the Agency may avoid any unauthorized modifications to the Contract, Contract Amendments, or Orders.

5.4 [Change Orders](#)

- 1) The Agency will only compensate for and the Construction Contractor shall only deliver or perform Additional Work that has been approved by the Agency through a fully authorized Change Order.
- 2) CHANGE ORDER TERMS. All Change Orders are subject to the Contract Terms and Conditions except to the extent they are modified by Change Order.
- 3) REASONABLE TIME FOR REVIEW. Both parties to the Contract agree to allow a reasonable period of time for the review and consideration of any requested Change Orders.
- 4) FIELD ORDER DIRECTIVES (See Exhibit I). Field Order Directives should be followed by a Change Order within a reasonable time. The Not-to-Exceed Cost detailed in the Field Order Directive is enforceable against the Construction Contractor if the Agency and Construction Contractor are unable to agree to a price through a Construction Change Order.
- 5) ITEMIZATION OF WORK. The Construction Contractor shall include the proposed Cost itemized breakout including Subcontractor or Subconsultant pricing by Work division labor and Materials, at a minimum to include: General Conditions, Overhead and Profit, Total- Labor Costs, Total Materials Cost, Equipment, Field Office and Job Site Supervision, Bonds, Insurance, and applicable tax. Failure of Construction Contractor



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| | <p>to submit itemized Cost information with the Change Order Request will delay processing through no fault of the Agency.</p> <ol style="list-style-type: none">6) ADDITIONAL TIME FOR DELAY. Construction Contractor must submit any request for an Excusable Delay within one business day after the Construction Contractor should have reasonably known of the occurrence prompting the request for an extension of time.<ol style="list-style-type: none">a) Any Construction Contractor request for an Excusable Delay must be made through Construction Contractor initiation of a Change Order Request and written notice to the Agency.b) Failing to timely and properly provide written notice of the Delay, which must include a request through a Change Order Request, will waive Construction Contractor's ability to negotiate increased time to complete the Work.c) The Construction Contractor's request shall include an estimate of Cost and of probable effect of delay on the Work Progress Schedule. Adverse weather conditions shall not be a basis for a claim for additional Costs.7) FUEL SURCHARGES. Under no circumstances will the Agency accept any fuel surcharges on any Change Order request or Construction Contractor Pay Applications8) CONSTRUCTION CONTRACTOR AND SUBCONTRACTOR MARKUP. The combination of overhead and profit shall not exceed the original percentage mutually agreed upon value of labor and Material for Work performed by any Construction Contractor or subcontractor for any Change Order or 5%, whichever is greater.9) CONSTRUCTION CONTRACTOR ADDITIONAL WORK. Any Additional Work caused by Construction Contractor error, inconsistency, ambiguity, or otherwise conduct of Construction Contractor shall not constitute a change, and such Work will be performed at no additional cost to Agency. <p>AGREEMENT ON CHANGE ORDER. Agreement on any Change Order shall constitute a final settlement of any and all matters relating to the change in the Work which is the subject of the Change Order including, but not limited to, any and all direct and indirect costs associated with such change and any and all adjustments to the Contract sum and the Schedule.</p> |
| <p>5.5 <u>Field Order Directive</u></p> | <ol style="list-style-type: none">1) The Agency may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, the Contract Cost and time for Substantial Completion being adjusted accordingly.2) A Field Order Directive (Exhibit I) shall be used in the absence of total agreement on the terms of a Change Order.3) If the Agency and the Construction Contractor cannot agree as to what amount should be charged for the Field Order Directive, Construction Contractor shall only be entitled to be reimbursed for actual direct labor and material Costs incurred at the construction site attributable to the change plus 5% for overhead and profit. Construction Contractor shall keep detailed records of all such Costs and submit such records to the Agency on a weekly basis. Within ten (10) days of completion of the change and the submission of all Cost data to the Agency, the Agency shall determine the total allowable Costs for the purpose of pricing and paying for the additional work required by the Field Order Directive and advise the Construction Contractor of such determination in writing. This determination shall be final and binding unless Construction Contractor objects in writing within ten (10) days of this determination. The written objection shall contain a detailed statement of those elements and items of the determination with which the Construction Contractor disagrees with an |



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| | <p>adequate explanation forming the bases of the disagreement. The parties shall then make a good faith effort to resolve the disagreement within fifteen (15) days. If the parties still fail to agree, the dispute shall be submitted to the Procurement Officer. The Procurement Officer shall determine the Costs and notify the Construction Contractor in writing of his or her determination. If the Construction Contractor disagrees with the Procurement Officer's determination, the Construction Contractor shall immediately initiate the contract claims resolution process in the Arizona Procurement Code (A.A.C. R2-7-B901, <i>et seq.</i>)</p> <ol style="list-style-type: none"> 4) When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change. 5) The amount of credit to be allowed by the Contractor to the Agency for a deletion or change which results in a net decrease in the Contract Cost shall be actual net Cost as determined by the Design Professional or Agency. 6) Pending final determination of Cost to the Agency, amounts not in dispute may be included in applications for payment. 7) For any disagreement between the Contractor and Agency on the adjustment in Contract time or the method for determining it, the adjustment or the method shall be referred to the Agency for determination. 8) When the Agency and Contractor agree with the determination made by the Contractor concerning the adjustments in the Contract Cost and Contract time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order. |
| <p>5.6 Minor Changes in the Work</p> | <p>The Contractor, with the Agency's approval, has the authority to order minor changes in the Work not involving adjustment in the Contract Cost or extension of the Contract time and consistent with the intent of the Contract. Such changes shall be affected by written order and shall be binding on the Agency and Contractor. The Contractor shall carry out such written orders promptly.</p> |
| <p>5.7 Claims</p> | <p>If Contractor is aware of any act, omission, or condition that would give rise to a breach of Contract or a Change Order and/or claim, Contractor shall notify Agency in writing within 48 hours after becoming aware of such act, omission, or condition. This notice shall provide sufficient detail so that the claim may be properly evaluated by the Agency in a timely manner. Failure to give such notice shall be deemed a waiver of the right of the Contractor to recover.</p> |
| <p>6. RISK AND LIABILITY</p> | |
| <p>6.1 Risk of Loss 6.1 Risk of Loss</p> | <p>If applicable, Contractor shall bear all risk of loss and damages caused by Drawings, Specifications, Design Requirements, or other documents prepared by Contractor and used by Contractor in bidding, designing, and/or constructing the project to the extent that such documents are ambiguous, incomplete, contain errors or inconsistencies or fail to comply with any applicable codes, regulations and laws.</p> |
| <p>6.2 Basic Indemnification</p> | <p>CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). If a Design Professional provides Work, services, studies, planning, surveys or other preparatory Work in connection with a public building or improvement, the Contractor, and any and all of its Subconsultants and/or Subcontractors under this Contract, shall indemnify and hold harmless the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees, from liabilities, damages, losses and Costs, including reasonable attorney</p> |



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| | <p>fees and court Costs (including, but not limited to, primary loss investigation, judgment Costs, expert witness fees, and any and all fees and Costs from appellate proceedings), for any and all acts arising from or connected to the performance of this contract but only to the extent caused by the negligence, recklessness, or intentional wrongful conduct of such Contractor or other persons employed or used by such Contractor or Subconsultants and/or Subcontractors in the performance of the Contract or subcontract, as allowed under A.R.S. Section 41-2586 (C) and A.R.S. Section 34-226. The Design Professional additionally agrees to indemnify the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for any vicarious liability for the tortious conduct of the Design Professional's actions including the actions of any of the Design Professional's personnel or Subcontractors and/or Subconsultants. The amount and type of insurance coverage requirements set forth in the Contract shall not be construed as limiting the scope of the indemnity in this paragraph.</p> <p>This indemnity shall not apply if the Contractor or Subconsultant(s) and/or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.</p> |
| <p>6.3 Patent and Copyright Indemnification</p> | <p>1) DESIGN PROFESSIONAL/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Design Professional Indemnitor for performance under the Contract, Design Professional shall indemnify, defend and hold harmless the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees against any third-party claims for liability, Costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:</p> <ul style="list-style-type: none"> a) Agency shall provide reasonable and timely notification to Design Professional of any claim for which Design Professional may be liable under this paragraph; b) Design Professional, with reasonable consultation from Agency, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise. Design Professional shall provide the Agency with notice of settlement negotiations and allow the Agency to participate in negotiations, if Agency so chooses; c) Agency may elect to participate in such action at its own expense; and d) Agency may approve or disapprove any settlement or compromise, provided that, Agency shall not unreasonably withhold or delay such approval or disapproval and Agency shall cooperate in the defense and in any related settlement negotiations. <p>2) If Design Professional is a public agency, this paragraph does not apply.</p> |
| <p>6.4 Force Majeure</p> | <p>1) DEFINITION. For this paragraph, "force majeure" means an occurrence that is:</p> <ul style="list-style-type: none"> a) beyond the control of the affected party, b) occurred without the party's fault or negligence, and c) something the party was unable to prevent by exercising reasonable diligence. <p>2) Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and subject to paragraph 6.5 "Performance in Public Health Emergency," declared public health emergencies.</p> <p>3) Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late</p> |



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| | <p>performance by a Subcontractor unless the delay arises out of an occurrence of force majeure.</p> <p>4) RELIEF FROM PERFORMANCE. Except for payment of sums due at the time of Force Majeure, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall provide written notice to the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.</p> <p>5) DELAY CAUSED BY FORCE MAJEURE IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits or any other consequential damages if and to the extent that such failure was or is being caused by an occurrence of force majeure.</p> <p>6) DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.</p> |
| <p>6.5 Performance in Public Health Emergency</p> | <p>1) Construction Contractor warrants that it will:</p> <p>2) Have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum:</p> <p>3) identification of response personnel by name;</p> <p>4) key succession and performance responses in the event of sudden and significant decrease in workforce; and</p> <p>5) alternative avenues to keep the project consistent with its Schedule or sufficient product on hand or in the supply chain; and</p> <p>6) Provide a copy of its current plan to Agency within three (3) business days after Agency's written request. If Construction Contractor claims relief under the paragraph "Force Majeure" for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Construction Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.</p> <p>7) For clarification of intent, being obliged to implement the plan is not of itself an occurrence of Force Majeure, and Construction Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a Material breach of contract.</p> |
| <p>6.6 Safety Standards</p> | <p>1) Contractor shall provide Materials and Services under this Contract that comply with all current applicable safety standards and regulations, including but not limited to, the</p> |



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| | <p>Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards and any other standard references in the Contract.</p> <ol style="list-style-type: none"> 2) Contractor shall provide necessary protection, take all precautions for and monitor the safety of Construction Contractor personnel and Subcontractor and/or Subconsultants during the performance of Work. 3) Contractor is obligated to act to prevent threatened damage, injury or loss of persons, the Work, or property at the Site or adjacent thereto in emergencies affecting the safety or protection thereof. |
| <p>6.7 Third Party Antitrust Violations</p> | <p>Contractor assigns to Agency any claim for overcharges resulting from antitrust violations to the extent that those violations concern Materials or services supplied by third parties to Contractor toward fulfillment of the Contract.</p> |
| <p>7. WARRANTIES</p> | |
| <p>7.1 Liens 7.1 Liens</p> | <p>Contractor warrants that the Materials and Services when accepted will be and will remain free of liens or other encumbrances.</p> |
| <p>7.2 Guarantees and Warranties</p> | <ol style="list-style-type: none"> 1) Design Professional warrants that it has carefully conducted and performed internal checking of any and all Design Requirements to ensure proper layouts and dimension completeness and clarity, and through due diligence has no knowledge of any inconsistencies, ambiguities, errors, omissions, or conflicts with regard to such Design Requirements. 2) Design Professional warrants that it has advised Agency in writing of the need for tests, studies, analysis or subconsultant services for the development of design documents. 3) Design Professional warrants that construction drawings and specifications submitted for bidding or negotiation with a Construction Contractor are complete, accurate, unambiguous and in compliance with all applicable codes, laws and ordinances. 4) Design Professional warrants that it is financially solvent and possesses sufficient experience, licenses, personnel, and capital to complete the services for the Agency. 5) Design Professional warrants that they have visited the project Site, is thoroughly familiar with the conditions of the Site, and will correlate its observations with the construction drawings and specifications. 6) Design Professional warrants that it shall be responsible for any and all defects in the construction drawings and specifications, and other design documents prepared by Design Professional and/or Subconsultants and/or Subcontractors, that are caused by the Design Professional, Subconsultants and/or Subcontractors, or any other person or firm hired by the Design Professional. 7) Design Professional warrants that the construction drawings and specifications are sufficient for the intended purpose of performing design services under this agreement. 8) Design Professional warrants that the construction drawings and specifications may be built at the Site and that construction and completion of the project will not violate any zoning ordinance or use restrictions imposed by any governing authority. 9) Design Professional warrants that all personnel or Subconsultants and/or Subcontractors used for construction administration services shall have sufficient knowledge and experience to properly carry out the duties required for the Work. |
| <p>7.3 Contractor Personnel</p> | <ol style="list-style-type: none"> 1) Construction Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the |



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| | <p>Contract. Construction Contractor further warrants that its key personnel will maintain any certifications relevant to their Work, and Construction Contractor shall provide individual evidence of certification to Agency's authorized representatives upon request.</p> <p>2) The Construction Contractor shall enforce strict discipline and good order among the Construction Contractor's employees and other persons carrying out the Contract Work. The Construction Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.</p> |
| <p>7.4 Intellectual Property</p> | <p>1) Design Professional warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Design Professional is not and cannot reasonably be expected to be aware of the infringement or violation.</p> <p>2) SYSTEMS AND CONTROLS. In consideration for Agency having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Design Professional agrees to establish and keep in place systems and controls appropriate to ensure that Agency funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights</p> |
| <p>7.5 Compliance with Laws</p> | <p>If applicable, Design Professional warrants that the Materials and Services and any disposal thereof bearing on performance of the Work do and will continue to comply with all applicable federal, state, and local laws.</p> <p>Some of the local codes with which the Work performed by the Design Professional must be in compliance include, but are not limited to, the Arizonans with Disabilities Act (A.A.C. R10-3-401 through 412) and American National Standards Institute's Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped; State of Arizona Fire Code; regulations related to solar energy and life cycle Cost analysis (see A.R.S. § 34-452); and Water Conservation for State Facilities (see Executive Order 91-3).</p> |
| <p>7.6 100% Construction Documents</p> | <p>1. Construction Documents shall be consistent with the Project program, construction budget, and Progress Schedule.</p> <p>2. Prior to the first Construction Documents phase submittal, Design Professional and its Subconsultants and/or Subcontractors shall review Agency's Bidding Documents for Project requirements and recommend any changes needed to make them applicable to the Project.</p> <p>3. Design Professional shall update the documents and provide additional drawings, details and specifications in sufficient detail as to be deemed complete and buildable.</p> <p>4. Prior to submitting the 100% Construction Documents, Design Professional and its Subconsultants and/or Subcontractors shall have thoroughly checked, coordinated, and revised all documents to bring them to 100% completed level</p> <p>5. The Design Professional shall provide or assist with the preparation of the following:</p> <ol style="list-style-type: none"> a) Certification Page b) Project Description c) Index to the Specifications d) Specifications and List of Drawings with dates |
| <p>7.7 Errors and omissions</p> | <p>1) Errors, inconsistencies, ambiguities or omissions discovered by the Contractor shall be reported as a written Request for Information to the Agency immediately prior to the execution of Work.</p> |



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| | <ol style="list-style-type: none"> 2) If the Contractor performs any Work activity knowing or should have known it involves an error, inconsistency or omission in the Contract without such written notice to the Agency, the Contractor shall assume full responsibility for such performance and shall bear the full Costs for correction. 3) REMEDIATION OF ERRORS. Contractor bears full responsibility for errors and omissions in its Work and any and all Work of the Contractor's Subconsultant's and/or Subcontractor's Work. Contractor shall include in its Work, without limit or additional Cost to the Agency, all Work necessitated, in whole or in part, by any and all errors and omissions of, or breach of, the Contract by, the Contractor, its Subconsultants and/or Subcontractors, or any entity working under the Contractor. At a minimum, the Contractor shall, at no Cost to the Agency, promptly remediate any errors, omissions, deficiencies, or contradictions in its Work to the satisfaction of the Agency. 4) ACCEPTANCE OR APPROVAL DOES NOT ALLEVIATE CONTRACTOR'S RESPONSIBILITY FOR ERRORS. The approval, review, or acceptance of the Contractor's Work by any Agency or other party does not, in any way, alleviate the Contractor from its responsibility to fully remediate the Work from any errors discovered subsequently or necessary clarification of any ambiguities. The obligations of the Contractor to correct defective or nonconforming Work shall not, in any way, limit the Contractor's other obligations under the Contract. 5) DESIGN PROFESSIONAL PERFORMING WORK WITH A CONSTRUCTION MANAGER AT RISK. When working with a Construction Manager-at-Risk, Design Professional has a shared responsibility with Construction Contractor for discovery and resolution of discrepancies, errors, and omissions in the Contract Documents when hired by the Agency to perform pre-construction services. In such case, Design Professional's responsibility pertains to review, coordination, and recommendation of resolution strategies within budget constraints. |
| <p>7.8 Licenses and Permits</p> | <p>Design Professional warrants that it will maintain all licenses and proper State registration required under paragraph 3.8 [Design Professional Licenses] valid and in force.</p> |
| <p>7.9 Operational Continuity</p> | <p>Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.1 Assignments and Delegation that expressly recognizes the event.</p> |
| <p>7.10 Pandemic Contractual Performance</p> | <ol style="list-style-type: none"> 1) The Design Professional shall have a plan that illustrates how the Design Professional shall perform contractual requirements in the event of a pandemic. At a minimum, the plan shall include: 2) Key succession and performance planning in the event of sudden significant decrease in Design Professional's workforce; 3) Alternative methods to ensure there are products in the supply chain; and 4) a current organizational chart and contact list. 5) In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this Contract impossible or impracticable, the following shall apply: 6) The Agency may temporarily void the Contract(s) in whole or specific sections if the Design Professional cannot perform contractual requirements; 7) The Agency shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code; and |



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| | <p>8) The Agency may, at its sole discretion, reinstate the voided contracts or sections of contracts when the pandemic is officially declared over and/or the Contractor can demonstrate the ability to perform.</p> <p>9) The Agency, at any time, may request to see a copy of the written plan from the Design Professional. The Design Professional shall produce the written plan within seventy-two (72) hours of the request.</p> |
| <p>7.11 Lobbying</p> | <p>1) PROHIBITION. Design Professional warrants that:</p> <p>2) it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Design Professional's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and, upon award of the Contract, it will disclose all lobbying activities to Agency to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety. Design Professional shall implement and maintain adequate controls to assure compliance with this paragraph.</p> <p>3) Design Professional shall obtain an equivalent warranty from all Subcontractor and/or Subconsultants and shall include an equivalent no-lobbying provision in all Subcontracts.</p> <p>4) EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for Agency's benefit or on Agency's behalf.</p> |
| <p>7.12 Survival of Warranties</p> | <p>All representations and warranties made by Design Professional under the Contract will survive the expiration or earlier termination of the Contract.</p> |
| <p>7.13 Waiver of the Statute of Repose</p> | <p>To the fullest extent permitted by law, Contractor waives Arizona's statute of repose as defined in A.R.S. § 12-552 (the "Statute of Repose"). The Contractor's express written warranties stated elsewhere in the Contract, and any and all any and all claims, actions, liabilities, damages, losses, or expenses including attorney fees and court Costs, for bodily injury or personal injury (including death), will not be time-barred by the Statute of Repose. Court Costs shall include, but are not limited to, Costs associated with claim processing, primary loss investigation, judgment, expert witnesses, and any and all fees and Costs related to appellate proceedings.</p> |
| <p>8. STATE'S CONTRACTUAL REMEDIES</p> | |
| <p>8.1 Agency's right to carry out work 8.1 Agency's right to carry out work</p> | <p>1) If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Agency to commence and continue correction of such default or neglect with diligence and promptness, the Agency may after such seven-day period, without prejudice to other remedies the Agency may have, correct such deficiencies or cause such deficiencies to be corrected. Contractor shall pay any and all Costs incurred by the Agency for such corrections to the work.</p> <p>2) In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the Cost of correcting such deficiencies, including compensation for the Designer's additional services and expenses made necessary by such default, neglect or failure.</p> <p>3) Such action by the Agency and amounts charged to the Contractor are both subject to prior review and confirmation by the Designer. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Agency.</p> |



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| | 4) An Agency may require that Contractor provide a work plan to address the deficiencies within 48 hours of receiving the above-referenced notice from Agency. |
| 8.2 Consequential Damages | <p>1) Design Professional and Agency waive claims against each other for consequential damages arising out of relating to the Contract. This mutual waiver includes, but is not limited to:</p> <ul style="list-style-type: none"> a) Damages incurred by the Agency for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and b) Damages incurred by the Design Professional for principal office expenses including, but not limited to, the compensation of personnel stationed there, for losses of financing, inherent loss, bond capacity loss, business and reputation, and for loss of profit arising directly from the Work, and for indirect expenses and general office overhead and future profits. <p>2) This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination. Nothing contained in this section shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Design Professional documents.</p> <p>3) In the event the liquidated damage clause is deemed unenforceable by any tribunal or court of competent jurisdiction, the Agency's waiver of consequential damages shall be null and void.</p> |
| 8.3 Nonconforming Tender | <p>1) The Materials provided and Services performed must comply fully with the Contract, and providing Materials or performing Services or any portion thereof that do not comply fully constitutes a breach of Contract, in which event Agency will be entitled to exercise any remedy available to it under the Contract or laws.</p> <p>2) Any material deviation from the final bid may be deemed a breach of contract unless specifically authorized by the Procurement Officer through a contract Change Order.</p> <p>3) The Agency will not accept a material reduction and/or modification in the quality and/or quantity of the Work.</p> |
| 8.4 Non-exclusive Remedies | Agency's rights and remedies under the Contract are not exclusive. |
| 8.5 Right to Assurance | <p>1) If Agency in good faith has reason to believe that Contractor does not intend to, or is unable to, perform or continue performing under the Contract, Procurement Officer may demand that Contractor promptly provide written assurance of intent to perform. Failure by Contractor to provide the assurance within the time specified may be the basis for terminating the Contract or for Agency to exercise any other remedy available to it under the Contract or laws.</p> <p>2) The Agency may demand any and all documents in its reasonable discretion to assure itself that the Contractor has the resources and ability to perform the Contract.</p> |
| 8.6 Right of Offset | <p>1) Agency is entitled to offset against any sums due Contractor any expenses or Costs Agency incurs or damages it has assessed against it concerning Contractor's non-conforming performance or failure to carry out the Work, including any expenses, Costs, and damages to which it is entitled by the Contract or laws.</p> <p>2) Further, the Agency is also entitled to the right of offset on this Contract for breach and defaults on other Contracts between the Agency and Contractor.</p> |
| 8.7 Stop Work Order | The Agency may at any time require Contractor to stop all or any part of the Work by written order (a "Stop Work Order"). Upon receipt of a Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further Costs during the period of stoppage that might be chargeable to Agency associated |



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| | with the portions of the Work covered by the order. If Contractor incurs losses, it may make a claim under Article 10 solely for Work performed to date of the Stop Work Order subject to the limitations set forth in this Contract. Further, upon issuance of a Stop Work Order, Contractor shall take all steps necessary to ensure the safety of the Site. |
| 9. CONTRACT TERMINATION | |
| 9.1 <u>AGENCY FAILURE TO PERFORM</u> 9.1 <u>AGENCY FAILURE TO PERFORM</u> | The Design Professional is not liable or responsible for Agency delays or suspensions of Work. |
| 9.2 <u>Gratuities</u> | Agency may, by written notice, terminate the Contract, in whole or in part, if Agency determines that employment or a Gratuity was offered or made by Design Professional or a representative of Design Professional to any officer or employee of Agency for the purpose of influencing the outcome of the procurement or the administration of the Contract or any favorable treatment concerning the Contract or performance of the Contract. Agency, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the Gratuity offered by Design Professional. |
| 9.3 <u>Notice to Cure</u> | In the event a Notice to Cure is issued to the Design Professional, the Design Professional shall attend a meeting with the Agency Procurement Officer and any designated Agency personnel. Upon receipt of any Notice to Cure, the Design Professional receiving the Notice must prepare a report describing its program and measures to affect the Cure of the event of default and/or anticipatory breach of Contract within the time required by the Notice to Cure. The report must be delivered to the Agency Procurement Officer at least three (3) business days prior to the required Notice to Cure meeting with the Agency. |
| 9.4 <u>Rights to Work Project</u> | Should the Design Professional be terminated under this Contract, the Agency may continue the Project and receive copies of the Drawings, Specifications, or other documents within fourteen (14) calendar days of the termination notice. Copies will be in the format designated by the Agency. The Agency reserves the right to have these documents completed, corrected, revised or added to by another Design Professional |
| 9.5 <u>Suspension or Debarment</u> | Agency may, by written notice to Design Professional, terminate the Contract immediately if Agency discovers that Design Professional has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor and/or Subconsultant of any public procurement unit or other governmental body. Agency has taken Design Professional's submittal of the Offer and Acceptance Form and will take its performance under the Contract as Design Professional's attestation that it is not currently suspended or debarred. If Design Professional subsequently becomes suspended or debarred, it shall notify Procurement Officer immediately. |
| 9.6 <u>Termination for Conflict of Interest</u> | By A.R.S. § 38-511, Agency may terminate the Contract within three (3) years after the effective date without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of Agency is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Design Professional receives Agency's written notice of the termination unless the notice specifies a later date. |
| 9.7 <u>Termination for Convenience</u> | By A.R.S. § 38-511, Agency may terminate the Contract within three (3) years after the effective date without penalty or further obligation if any Person significantly involved in |



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| | <p>initiating, negotiating, securing, drafting, or creating the Contract on behalf of Agency is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Design Professional receives Agency's written notice of the termination unless the notice specifies a later date.</p> |
| <p>9.8 <u>Termination for Default</u></p> | <ol style="list-style-type: none"> 1) In addition to the rights reserved to it under the Contract, Agency may terminate the Contract in whole or in part due to Contractor's failure to: <ol style="list-style-type: none"> a) comply with any term or condition of the Contract; b) comply with any warranty made by construction contractor under the contract c) obtain and maintain all required insurance policies, bonds, licenses, and permits; or d) make satisfactory progress in carrying out the Work. Procurement Officer shall give written notice of the termination and the reasons for it. e) or fails to furnish Agency with assurances satisfactory to Agency evidencing Contractor's ability to complete the work in compliance with all the requirements of the Contract Documents. 2) Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the Contract and all necessary and attributable unfinished Materials on hand, Work in progress, Work completed, and Work accepted will become Agency's property, and Contractor shall deliver all of it immediately on demand. Agency may, following termination of the Contract under this paragraph, procure on terms and in the manner determined to be appropriate Materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to Agency for any excess Cost Agency incurs in procuring such substitutes. 3) In the event the Agency terminates for default, the Agency shall be entitled to recover from the Contractor any and all reasonable attorney fees and court Costs (including, but not limited to, primary loss investigation, judgment Costs, expert witness and/or consultant fees and any and all expenses, fees, and Costs from appellate proceedings). 4) If a termination for default is later determined to have been improper, such termination shall be automatically converted to a termination for convenience, and Contractor's remedies and compensation shall be limited to those for a termination for convenience under the Contract. |
| <p>9.9 <u>Work Performance Continuation Required</u></p> | <p>Design Professional shall carry on the Work and adhere to the Progress Schedule during all disputes, disagreements, or alternative resolution processes with the Agency. Design Professional shall not delay or postpone any Work except as Agency and Design Professional may agree in writing. Design Professional shall continue to perform in accordance with the requirements of the Contract up to the effective date of any Stop Work Notice issued or Termination, as directed by Agency in the notice.</p> |
| <p>10. CONTRACT CLAIMS</p> | |
| <p>10.1 <u>Claim Resolution</u> 10.1 <u>Claim Resolution</u></p> | <p>Notwithstanding any law to the contrary, all Contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and the rules adopted thereunder.</p> |
| <p>10.2 <u>Mandatory Arbitration</u></p> | <p>In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements for the resolution of claims valued at less than \$100,000 by the State. The parties agree that any and all mandatory arbitration shall be through the American Arbitration Association ("AAA"), with the arbitrator to be selected pursuant to AAA rules and the arbitration to be conducted</p> |



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| | according to the applicable AAA rules, and with the Costs of arbitration (including but not limited to the arbitrator's fees, and Costs) to be allocated between the parties by the arbitrator. Costs do not include attorney fees. |
| 10.3 Additional Parties to Arbitration | At the State's request, Design Professional agrees to allow for the joinder of an additional party, or additional parties, to an arbitration of any claim relating to the Contract. This provision is intended for circumstances in which the State, Design Professional, or an additional party, has a claim or claims that relate to either the facts or claim at issue in the Design Professional's arbitration with the State, and the State determines that it would be efficient to join all the parties involved in the dispute in one arbitration. |
| 11. DESIGN PROFESSIONAL RESPONSIBILITIES | |
| 11.1 Acceptance of Work 11.1 Acceptance of Work | <ol style="list-style-type: none"> 1) Agency has the right to make acceptance of the Work subject to a complete inspection on delivery and installation, if installation is Construction Contractor's responsibility. Agency may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent Materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. 2) Construction Contractor shall remove and replace any rejected Work; and remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. Agency will not owe Construction Contractor any payment for rejected Work, and Agency may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Construction Contractor in those instances where Agency has agreed to permit repair instead of demanding replacement |
| 11.2 Additional Work | <ol style="list-style-type: none"> 1) AUTHORIZATION FOR ADDITIONAL WORK REQUIRED. Contractor shall only provide Additional Work when authorized in a written Order signed by the responsible Agency Procurement Officer. The Agency will not provide compensation for unauthorized Work. 2) PROMPT NOTIFICATION. Contractor shall notify the Agency with reasonable promptness when the need for additional services is identified and explain the facts and circumstances giving rise to the need. If the Agency determines that all or parts of those services are not required, the Agency shall give prompt written notice to the Contractor, and the Agency shall have no further obligation to compensate the Contractor for those services. 3) PROMPT AND ACCURATE SUBMITTALS. To avoid delay in the Schedule, Contractor shall submit any Requests for Information ("RFI's) or any other necessary documentation completely, accurately, and in a timely fashion, in accordance with the Contract. |
| 11.3 Agency Reviews and Approvals During Design | <ol style="list-style-type: none"> 1) Each design phase is subject to review and approval by the Agency. 2) Other Agency personnel, external consultants, or public agencies may also review the Design Professional's submittals at the Agency's discretion or as required by applicable regulations in advance of Agency approval. 3) The Agency will review the submitted drawings at all stages at times mutually agreeable with the Design Professional and provide written comments. The Design Professional may not proceed with Work until it has received Agency approval. |
| 11.4 Allowances | <ol style="list-style-type: none"> 1) The Construction Contractor shall include in the Contract Cost at time of offer submission any and all Allowances stated in the Contract as separate line items. Items covered by Allowances shall be supplied for such amounts and by such persons or |



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| | <p>entities as the Construction Documents may direct, but the Construction Contractor shall not be required to employ persons or entities against which the Construction Contractor makes reasonable objection. Agency shall approve all use of Allowances through the use of Authority to Use Allowance Form, Exhibit S.</p> <p>2) Allowances shall:</p> <ul style="list-style-type: none"> a) Cover the Cost to the Construction Contractor of Materials and equipment delivered to the Site and all required taxes, less applicable trade discounts; b) Construction Contractor's Costs for unloading and handling at the Site, labor, installation Costs, overhead, profit and other expenses contemplated for stated Allowance amounts shall be included in the Contract Cost and not in the Allowances; c) Construction Contractor shall take all reasonable steps to ensure the scope and budget of Allowances are correct. When Costs are more than or less than Allowances, the Contract Cost shall be adjusted accordingly by a Change Order. Construction Contractor shall notify the Agency immediately if the scope selected for the Allowance causes Costs to be more or less than Allowance. d) Amount of Allowance must reflect reasonable Cost of providing the items, whether the item is actually provided. |
| <p>11.5 <u>As-Built Drawings</u></p> | <p>Construction Contractor will review and update the As-Built Drawings on a weekly basis reflecting the changes in Specifications and working Drawings during the Construction of the Work and such updated As-built Drawing shall be made available at the construction site for review by agency and Design Professional. Construction Contractor will submit the fully revised set of Drawings to the Design Professional upon Final Completion of the Work for the Project. Design Professional will incorporate Construction Contractor's red-line drawings and will submit the fully revised set of As-Built Drawings to the Agency upon Final Completion of the Work for the Project.</p> |
| <p>11.6 <u>Automatic Temperature Control Design</u></p> | <p>Where applicable, the Design Professional shall specify open protocol automatic Energy Management System (EMS)/HVAC controls systems that communicate with and are interoperable with the Agency system. The Agency's Designated Representative shall arrange an initial meeting to discuss the integration and specification of the EMS/HVAC Control System. The Design Professional shall thereafter incorporate these requirements into Project design and Construction Documents.</p> |
| <p>11.7 <u>Basic Work, Design Professional Services</u></p> | <p>Design Professional's Basic Work, as detailed in the Design Professional Services Agreement, shall include but are not limited to, any and all structural, mechanical, civil and electrical engineering Services. If the initial scope of the Project is changed materially by the Agency, the Design Professionals compensation will be equitably adjusted through negotiation upon execution of a contract amendment.</p> |
| <p>11.8 <u>Bidding Phase</u></p> | <p>During the Bidding phase, only the Agency Procurement Officer shall receive all requests for interpretation, clarification and modification from Bidders, and log in the date, time, contact information and question in the e-procurement system. The Agency Procurement Officer will forward this information to the Design Professional. The Design Professional and its Subconsultants and/or Subcontractors may answer general questions and collect information from Bidders, but shall not clarify intent or change the Bidding Documents verbally or in writing. The Design Professional and its Subconsultants and/or Subcontractors shall forward a copy of questions they directly received from Bidders to the Agency Procurement Officer. The Agency Procurement Officer sets the deadline for receiving all requests for clarification or interpretation of the Bidding Documents. Questions received after the deadline may be answered at the discretion of the Agency Procurement Officer</p> |



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| <p>11.9 Clean Up of Site</p> | <ol style="list-style-type: none"> 1) The Construction Contractor shall at all times keep the premises, Site of construction, surrounding area, and any storage areas neat and clean, and free from accumulation of waste materials or rubbish caused by operation of Work under the Contract. 2) At completion of the Work the Construction Contractor shall remove from and about the Project waste materials, rubbish, the Construction Contractor 's tools, construction equipment, machinery, surplus material, and any excess rocks and dirt from the Work, to restore affected areas of Site to a neat and clean condition satisfactory to the Agency Designated Representative. 3) If the Construction Contractor fails to clean up, the Agency may do so and the Cost thereof shall be charged to the Construction Contractor. 4) Any landscaped seeded or sodded area requiring repair as a result of construction damage shall be leveled, raked, and re-seeded or re-sodded with like material at Construction Contractor 's expense. |
| <p>11.10 Compliance with Codes</p> | <p>Contractor shall bear full responsibility for ensuring that the Work performed under the Contract complies with all applicable laws, codes and regulations. In the case of conflicts between codes, the more stringent conditions shall apply. The Arizona Department of Administration Statutory Review is the authority having jurisdiction and is the enforcement agency for code requirements.</p> |
| <p>11.11 Cooperation and Coordination</p> | <ol style="list-style-type: none"> 1) Agency and Design Professional will cooperate and participate fully in coordinating at all levels and among all the parties involved in this Project, and at their own expense. Cooperation shall mean both formal and informal interaction between and among all the parties involved in the Project, including but not limited to, Agency's Representatives, Design Professional's Subconsultants and/or Subcontractors, Construction Contractors, Subcontractor and/or Subconsultants and outside entities as designated by Agency to promote the desired goal of a successful, non-adversarial completion of the Project on time and within budget. The requirement for Cooperation shall not be construed as a change in the terms or conditions of the Contract for the Project. 2) The Agency and Construction Contractor shall endeavor to communicate through the Design Professional. Communications by and with the Design Professional 's Subconsultants and/or Subcontractors shall be through the Design Professional. Communications by and with Subcontractor and/or Subconsultants and material suppliers shall be through the Construction Contractor. Communications by and with separate Construction Contractors shall be through the Design Professional. |
| <p>11.12 Schedule</p> | <ol style="list-style-type: none"> 1) SCHEDULE. The Schedule for Construction and any and all updates thereto shall include time for any and all necessary review and approvals by Agency or outside entities, as well as sufficient time for other Consultants to complete their portion of the Work. The Schedule shall be in a format and provide sufficient detailed information that is acceptable to the Agency. Construction Contractor shall provide the Agency and Design Professional with an approved baseline Schedule, within a time frame determined by the Agency, to include at a minimum initiation of construction, mobilization, procurement, installation, testing, inspection, delivery of Close-out Documents and Substantial Completion of the Work of the Contract and any other information required in the <u>Special Terms and Conditions</u>. 2) ADDITIONAL TIME. Construction Contractor shall bear the primary responsibility for determining whether additional time is required for the review of any orders or amendments to the Contract for Construction; allowing time for Agency review and |



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| | <p>approval of any such orders or amendments; and is responsible for ensuring that such time is reflected in a modified Schedule in a Change Order.</p> <p>3) CONTRACTOR REVIEW. Contractor shall bear the primary responsibility for ensuring that it was allotted sufficient time in the Schedule for construction for any and all necessary reviews and approvals. The Agency and/or Design Professional shall timely review all requests for information, changes, and submittals in a timely fashion as to not delay the project.</p> |
| <p>11.13 <u>Conformity of Work to Construction Documents Review</u></p> | <p>1) The Design Professional shall review inspection reports, laboratory reports, and test data to determine conformity of such data with the Design Requirements expressed, implied, or depicted in the Contract Documents; approved Shop Drawings, Product Data, and Samples; and Clarification Drawings.</p> <p>2) The Design Professional shall also recommend to the Agency, actions to be taken by the Agency as determined from Design Professional Project Site visits, inspection reports, laboratory reports, and test data or from Construction Contractor proposals, or other relevant documents. Agencies shall have the right, in the event of a dispute over conformity, to conduct an independent evaluation.</p> |
| <p>11.14 <u>Construction Cost Control</u></p> | <p>Throughout the Project, the Design Professional shall keep the Project's estimated construction Cost within the Construction Budget and is responsible to periodically submit to Agency, at review times mutually agreeable to Agency and Design Professional, a current Estimated Project Construction Cost to verify that this is accomplished. Design Professional and Agency shall establish times in the Schedule to review the Construction Budget.</p> |
| <p>11.15 <u>Construction Safety</u></p> | <p>1) INJURIES. In the event of an incident or accident involving outside medical care for an individual on or near the Work, Construction Contractor shall notify Agency Designated Representative and other parties as may be directed promptly, but no later than twenty-four (24) hours after Construction Contractor learns that an event required medical care, supply Agency Designated Representative and Construction Contractor with an incident report no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident (one (1) fatality or three (3) or more workers hospitalized), barricade and leave intact the scene of the incident until all investigations are complete. A full set of incident investigation documents, including facts, witness names and statements, finding of cause, and remedial plans shall be provided to Agency Designated Representative within one (1) week after occurrence, unless otherwise directed by Agency.</p> <p>2) ENVIRONMENTAL SAFETY Construction Contractor shall immediately stop Work activities impacted by encountering any previously unknown potentially hazardous Material, or other Materials potentially contaminated by hazardous Material, and secure the affected area, and notify Agency Designated Representative immediately. Agency Designated Representative will promptly engage qualified experts to investigate and issue a written report to Construction Contractor identifying the Material(s) found. The Agency shall remediate and render harmless the hazard caused by Agency or if an unknown and could not have been reasonably foreseen by Construction Contractor.</p> <p>3) TRENCHING AND EXCAVATING PLAN. Construction Contractor is required to submit a trenching and excavation plan to Agency Designated Representative prior to commencing operations unless an engineered plan is part of the Contract Documents.</p> <p>4) ASBESTOS CONTAINING MATERIAL. The Construction Contractor shall not knowingly use, specify, request or approve for use any asbestos containing Materials or lead-based paint in the Work. When a specific product is specified, the Construction</p> |



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| | <p>Contractor shall endeavor to verify that the product does not include asbestos containing Material.</p> <p>5) Construction Contractor, Subcontractor and/or Subconsultants. employees and all Site visitors, at all times on the job Site, shall furnish and wear sufficient protective gear, including but not limited to, hardhats, safety shoes and safety goggles. Construction Contractor shall also provide temporary protection measures, drinking water and temporary sanitation facilities for use by construction personnel. Construction Contractor shall provide up-to-date Material safety data sheets (MSDS) as required for Materials at the Site. Construction Contractor shall have a detailed site-specific safety plan to address State and Federal safety laws.</p> |
| <p>11.16 <u>Contractor Pre-Award Conference</u></p> | <p>1) Design Professional shall, participate in a pre-award meeting to include review of Construction Contractors' submittals which are received with the signed Agreement of the Construction Contractor.</p> <p>2) Design Professional shall submit, prior to the bid date, a complete list of all submittals required by the Contract Documents listed by individual specification sections.</p> |
| <p>11.17 <u>Correction of Defects and Non-Compliant Work</u></p> | <p>1) Construction Contractor shall use due care in inspections and observations to determine non-conformance.</p> <p>2) Design Professional shall keep agency informed of progress and quality of Work and use due care to guard against defects and deficiencies in Construction Contractor's Work. Should the Design Professional and/or the Agency Designated Representative identify Work as noncompliant with the Contract Documents, upon notice Construction Contractor shall immediately correct such Work at no additional Cost to the Agency. The approval of Work by either Design Professional or Agency Designated Representative does not relieve Construction Contractor from the obligation to comply with all requirements of the Contract Documents.</p> <p>3) Construction Contractor shall take any and all steps to meet the requirements of the Project Specifications. If Construction Contractor fails to do so, the Agency will require correction and full compliance. After corrective action is taken, the Agency will retest to determine compliance with the Specifications. Construction Contractor shall be responsible for the Cost of the additional testing and inspections, and such Cost shall be deducted from progress payment to Construction Contractor.</p> <p>4) Construction Contractor shall, at no additional Contract Cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials or Work.</p> <p>5) Construction Contractor shall bear the expense of making good all Work of Agency other contractors destroyed or damaged by removal or replacement of defective Construction Contractor Work. Agency shall equally enforce this clause against any Agency other contractors.</p> <p>6) If Construction Contractor fails to take prompt action to comply with the Contract Documents in a timely manner, as determined by the Agency, Agency will be entitled to exercise its remedies under paragraph 8.6 [Right of Offset] of the Uniform Terms and Conditions, or any other remedies set forth in the Contract.</p> <p>7) Whether Agency will permit Construction Contractor to repair in place or demands that Construction Contractor remove and replace is at Agency's discretion in each instance, provided that, Agency shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk,</p> |



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- unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on Agency's part.
- 8) **AGENCY ACCEPTANCE OF DEFECTIVE WORK.** At the absolute discretion of the Agency, the Agency may decide to accept defective Work, instead of requiring correction or removal and replacement of defective Work. Construction Contractor shall pay all claims, Costs, losses and damages attributable to Agency's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents and compensating the Agency for the diminished value of the project resulting from the defective Work. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Construction Contractor to Agency after a calculation by Agency of the diminution in value of the project resulting from defective Work.
 - 9) The Construction Contractor's obligations to perform Warranty Work will survive the acceptance of any Work and any termination of the Contract.
 - 10) **CONSTRUCTION CONTRACTOR NON-COMPLIANT WORK.** Should the Design Professional and/or the Agency Designated Representative identify Work as noncompliant with the Contract Documents, Design Professional and/or Agency Designated Representative shall communicate the finding to Construction Contractor, and Construction Contractor shall correct such Work at no additional Cost to the Agency. The approval of Work by either Design Professional or Agency Designated Representative does not relieve Construction Contractor from the obligation to comply with all requirements of the Contract Documents.
 - 11) **AGENCY MAY CORRECT NON-COMPLIANT WORK.** Agency shall issue a written notice to Construction Contractor to correct and remedy any deficiency including but not limited to
 - a) Remove and replace rejected Work, or
 - b) Construction Contractor failure to perform Work in accordance with the Contract Documents; or
 - c) Construction Contractor fails to comply with other provisions of the Contract Documents.
 - 12) If, in the opinion of the Agency, significant progress to correct the deficiency by the Construction Contractor has not been made, within seven (7) days, the Agency may exercise any actions necessary to remedy the deficiency including but not limited to:
 - a) Exclude Construction Contractor from all or part of the Site;
 - b) Take possession of all or part of the Work, and
 - c) Suspend Construction Contractor's services related thereto, and
 - d) Incorporate in the Work all Materials and equipment stored for the Project at the Site or for which Agency has paid Construction Contractor but which are stored elsewhere.
 - e) Hire a replacement contractor or take other measures that are reasonably necessary to correct the noncompliant Work. Any and all Costs incurred shall be paid by the Construction Contractor or deducted from any amounts due or that may be due Construction Contractor under this or any other contract with the State of Arizona. Costs, shall include, but not be limited to, repair and replacement Costs, labor and material Costs, removal Costs, design Costs, administrative expenses, and any other Costs and expenses caused by Construction Contractor's non-compliance.



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| | <p>13) Construction Contractor shall allow the Agency, its agents and employees, Agency's other Construction Contractors, Construction Contractors and Subconsultants and/or Subcontractors access to the Site to enable Agency to exercise the rights and remedies under this paragraph. All claims, Costs, losses and damages incurred or sustained by the Agency in exercising such rights and remedies will be charged against Construction Contractor and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work. Such claims, Costs, losses and damages will include but not be limited to all Costs of repair or replacement of Work of others destroyed or damaged by correction, removal or replacement of Construction Contractor's defective Work. Construction Contractor shall not be allowed an extension of the Contract times (or Milestones), or claims of damage because of any delay in the performance of the Work attributable to the exercise by Agency of Agency's rights and remedies hereunder.</p> <p>14) CONSTRUCTION CONTRACTOR NON-COMPLIANT WORK. If the Construction Contractor Materially fails to furnish services in compliance with the approved Project Schedule or any subsequently approved amendments to the Schedule or the Construction Contractor's services, or deliverables are unusable for their intended purpose and these failures are a Material breach of this Contract, then Agency, in its reasonable discretion, and after failure of Construction Contractor to respond to the Notice to Cure, may Contract with another Construction Contractor to complete the services or Work product, and Construction Contractor shall pay the Agency for the difference between the balance under Construction Contractor's Contract with Agency and the amount charged by the replacing Construction Contractor to complete Construction Contractor's Scope of Work.</p> <p>a) Agency will provide Construction Contractor with the itemized Costs as they are being incurred.</p> <p>b) Prior to contracting with another Construction Contractor, the Agency shall provide Consultant with a Notice to Cure, as described in these Uniform Terms and General Conditions.</p> <p>c) Should the Construction Contractor failure to Cure the Material breaches of this Contract, as identified in the Notice to Cure, the Agency may pursue any of the available remedies for breach of Contract available in Section 8 above.</p> <p>15) It is understood that if the Construction Contractor materially breaches this Contract and the Agency Terminates for Default under this Contract, Construction Contractor shall not be entitled to any sums due or that may become due under this Contract.</p> |
| <p>11.18 Demolition Plan</p> | <p>Demolition Plan (whenever a Project requires the demolition of a building or portions thereof). Design Professional shall differentiate between new Work (walls, doors, finishes, and so on), existing Work to be removed, and existing Work to remain in place.</p> |
| <p>11.19 Design Development</p> | <p>Design Professional shall provide conceptual civil, landscape, architectural, structural, plumbing, mechanical, electrical drawings as required for the Design Requirements of the Work.</p> |
| <p>11.20 Design Professional Agreements, Communication</p> | <p>The Agency will ensure that Design Professionals receive the necessary communication from other Construction Contractors to perform the required Work, and shall promptly notify Design Professionals of any and all communications that the Agency determines may materially affect the Design Professional's Work.</p> |
| <p>11.21 Design Schematics</p> | <p>Design Professional shall prepare and submit to Agency diagrammatic drawings which delineate the design criteria (e.g., exit paths, travel distances, required exits, rated walls,</p> |



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| | rated corridors, building occupancy, construction type, and fire zones). This graphic documentation of the design criteria shall be updated with each subsequent submittal. |
| 11.22 Energy Efficiency | Upon request by the Agency, Design Professional will analyze the Work or related components for energy efficiency gains including, but not limited to Life Cycle Costing, pursuant to A.R.S. 34-452. |
| 11.23 Examination of Site | <ol style="list-style-type: none"> 1) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Work or its Cost. Contractor and its key personnel shall visit the Project Site to become familiar with existing Site conditions for the Agency Project and visually survey for coordination of the Work, which may include but not limited to, the Site location and size, Site and adjacent perimeter, utility capacities, conditions bearing upon transportation, disposal, handling, and storage of Materials, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during Work performance, and connection options of external utilities, all relevant areas of any existing buildings to be altered, ceiling, interior, exterior, and concealed spaces, prior to submitting an Offer for the Work. 2) The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the solicitation prior to bid submittal and Contract before commencing Work. 3) The Contractor acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface Materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Site, including all exploratory Work done by the Agency, as well as from the drawings and specifications made a part of this Contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and Cost of successfully performing the Work, or for proceeding to successfully perform the Work without additional expense to the Agency. 4) The Agency assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Agency. Nor does the Agency assume responsibility for any understanding reached or representation made concerning conditions which can affect the Work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this Contract. |
| 11.24 Forced Substitutions | Forced substitutions will not be permitted; Contractor shall obtain Agency's prior written consent before making any substitution for any Material or Service covered by the Contract. |
| 11.25 Inclement Weather Day | <ol style="list-style-type: none"> 1) RAIN DELAY. Construction Contractor bears the risk of rainfall activity unless delayed on a critical path for more than 7 days. 2) Construction Contractor shall immediately notify the Agency Designated Representative on the day, and any subsequent days throughout the Project, the Construction Contractor is unable to perform Work at the Site on the critical path for more than seven (7) continuous normal Work hours due to inclement weather or rain. The Agency Designated Representative shall confirm the weather conditions and provide a written confirmation to the Construction Contractor. 3) Construction Contractor shall submit to the Design Professional and Agency Designated Representative for review a Change Order Request with the number of |



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| | <p>days the Construction Contractor is requesting a no Cost time extension for Substantial Completion for inclement weather or rain in excess of normal rain fall, along with documentation of the weather days that occurred, and the impact on the critical path Work no later than the end of the month in which the inclement weather day or days occurred. Failure of Construction Contractor to submit a Change Order Request in accordance with this paragraph requirement shall constitute a waiver of additional time for Substantial Completion. Agency Representative shall be the final decision maker on the number of inclement weather days in any Construction Contractor properly submitted Change Order Request for extension of time for Substantial Completion in the event of disagreement between the Construction Contractor and Agency Designated Representative. Average days of rain per month will be determined by meteorological data obtained from the closest National Weather Service Station to the Project Site.</p> |
| <p>11.26 <u>Inspection and Material Testing</u></p> | <ol style="list-style-type: none"> 1) All Materials and equipment used in the construction of the Project shall be subject to inspection and testing in accordance with generally accepted standards, as required and defined in the Contract Documents. 2) CONSTRUCTION CONTRACTOR RESPONSIBILITIES. Construction Contractor shall provide, at Construction Contractor’s expense, the testing and inspection services required by the Contract Documents. Construction Contractor shall provide such equipment and facilities as are required for conducting field tests and for collecting and forwarding samples of sufficient size for test purposes. No Materials or equipment represented by samples are to be used until tests, if required, have been made and the Materials or equipment are found to be acceptable. 3) UNFIT FOR USE AFTER APPROVAL. Any Material which becomes unfit for use after approval thereof shall not be incorporated into the Work. Approvals or failures to properly inspect or test shall not relieve Construction Contractor from its obligation to perform the WORK in accordance with the requirements of the Contract Documents and to also inspect Construction Contractor’s own Work. Failure to discover, inspect, or timely report shall not excuse Construction Contractor from full performance of the Work. 4) TIMELY NOTICE. Construction Contractor shall notify Agency Designated Representative and/or Design Professional in writing if any Work will need to be inspected, tested, or approved by someone other than Construction Contractor. Construction Contractor shall coordinate with the Agency and Design Professional well in advance of such testing, inspection, or approval process. Should an inspection, test, or approval be required under this paragraph, Construction Contractor shall bear the sole responsibility for updating the Progress Schedule. |
| <p>11.27 <u>Inspection of Work by Design Professional</u></p> | <ol style="list-style-type: none"> 1) Design Professional is responsible for inspection activity and shall use due care to observe the Work as Work progresses and determine whether or not Construction Contractor’s Work or any part of Work is defective or fails to conform to standards of the trade and generally accepted standards for such Work defined in the Contract Documents. Work will be compared to the Drawings and Specifications and any and all supplemental Drawings and Specifications for the Project. 2) Design Professional shall provide technical direction to, and interpretation of, the Contract Documents for inspectors and advise inspectors of decisions rendered. 3) Any inspectors, acting under the direction of Agency’s Designated Representative, or Design Professional will: |



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| | <ul style="list-style-type: none"> a) Be responsible for milestone inspections (spot checks) to assess compliance with the requirements of the Contract Documents. b) Prepare a written report following each milestone inspection. The inspector shall notify the Agency's Designated Representative when Work that does not comply with the Contract Document requirements is observed in the field. Observed instances of noncompliance shall be noted in the inspector's report. c) Comment in subsequent inspector's reports on whether or not instances of noncompliance have been corrected. d) Participate in Punch List inspections for partial occupancy, Substantial Completion and final completion. e) Assist Agency Designated Representative in reviewing test and inspection results from testing laboratories. f) If Agency contracts for specialty inspection services, the inspector shall report the results of these inspections to Agency's Designated Representative. g) Not authorize deviations from the Contract Documents. h) Not advise or issue directions to Construction Contractor regarding any aspect of construction means, methods, techniques, sequences, or procedures or regarding safety programs in connection with the Project. |
| <p>11.28 Issue Addenda</p> | <ul style="list-style-type: none"> 1) Interpretation, clarification, and modification of the Contract Documents shall be issued only in the form of an Addendum to the Contract Documents. Design Professional shall furnish the information required to the Agency Procurement Officer for issuance of Addenda. 2) Design Professional is responsible for receiving, reviewing, approving, coordinating, and incorporating addenda items received from the Subconsultants and/or Subcontractor(s) into a single addendum document prior to submitting this document to the Agency Procurement Officer. 3) Addenda shall be submitted to the Agency Procurement Officer in the same format as the Construction Documents. 4) Design Professional shall provide to the Agency at the end of the Bidding phase the following documents with changes identified as follows. <ul style="list-style-type: none"> a) In the Specifications, all additions shall be shown in bold underline and all deletions shown in strikethrough. b) In the Drawings, changes shall be "clouded." c) One set of individual Construction Drawings and sections of the Specifications which were altered by Addenda. d) One complete set of Construction Drawings and Specifications that fully integrate all addenda items. |
| <p>11.29 Key Personnel</p> | <ul style="list-style-type: none"> 1) AUTHORITY. The Contractor shall designate which of its employees have the authority to enter into agreements with the Agency on behalf of the Contractor, and which of its employees, its, Subconsultants and/or Subcontractors, will bear the primary responsibility for the completion of the Work. 2) REMOVAL OF PERSONNEL. Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, Agency may at its discretion and, without the obligation to demonstrate cause, instruct Contractor to remove any of its personnel from Agency's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace them with other personnel having equivalent qualifications, experience, and capabilities. The Agency Designated Representative may require, in |



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| | <p>writing, that the Contractor remove from the Work any employee the Agency Designated Representative deems incompetent, careless, or otherwise objectionable.</p> <ol style="list-style-type: none">3) STATEMENT OF QUALIFICATIONS. At every stage of the Project, Design Professional guarantees that Key Personnel will have the minimum skills and qualifications listed in the most recent Statement of Qualifications the Design Professional submitted to the State.4) PERSONNEL SUBSTITUTIONS. Contractor shall not be permitted to substitute Contractor Key Personnel, or Subconsultants and/or Subcontractors after offer submittal, without the prior written approval of the Agency Designated Representative. Requests shall be made in writing detailing the reasons for the requested change and shall not commence without written approval from Agency. The Agency has the right to the same kind and quality of the employee initially offered.5) ROLE APPROVALS. Contractor Key Personnel designated in Offer Documents shall be deemed approved for the roles and responsibilities stated unless expressly stated otherwise by the Agency prior to execution of the Contract. |
| <p>11.30 Labor and Materials</p> | <ol style="list-style-type: none">1) Construction Contractor shall perform Work during regular business hours unless such non-normal Work hours are required by the Contract Documents and not permit overtime work. Agency Designated Representative may approve alternate Work hours that neither add additional Cost nor time to the Contract Cost or Project Substantial Completion.2) All equipment, Materials, and articles incorporated into the Work covered by this Contract shall be new and of the most suitable grade for the purpose intended, shall be stored, applied, installed, connected, erected, used, cleaned and conditioned by Construction Contractor in accordance with the instructions of the applicable manufacturer, fabricator, supplier or distributor, unless otherwise specifically provided in the Contract Documents.3) References in the Specifications to equipment, Materials, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality, function, and type, and shall not be construed as limiting competition.4) All Work under this Contract shall be performed in a skillful and workmanlike manner. Construction Contractor shall provide competent, suitably qualified personnel to survey, lay-out, and construct the Work as required by the Contract Documents and maintain good discipline and order at the Site at all times.5) Construction Contractor is solely responsible for construction means, methods, techniques, sequences or procedures, for safety precautions and programs, protection of installed Work, for coordinating all portions of the Work under the Contract and qualify controls in connection with the Work. and will utilize the above so as not to destroy materials for reuse or to remain the property of the Agency6) The Construction Contractor shall be responsible for all Materials delivered and Work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been partially accepted under the Contract. Construction Contractor shall remain responsible for the care and protection of Materials and Work in the areas where Punch List items are completed until Final Completion.7) The Construction Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, drinking water, water, heat, ventilation, utilities, barricades, lighting, construction and warning signs, temporary fire |



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| | <p>protection, transportation, temporary facilities, fencing, appliances, fuel, power, light, heat, telephone, sanitary facilities, and services necessary for the construction, performance, testing, start-up, inspection and completion of the Work. Any temporary sanitation facilities shall be serviced a minimum of one (1) time weekly.</p> <ol style="list-style-type: none"> 8) Construction Contractor shall install and maintain temporary fencing with lockable gates as indicated or directed by the Agency Designated Representative. 9) Materials, equipment or items required for Work which are shown on the Drawings but not mentioned in the Specifications or Materials, equipment or items required by the Specifications but not shown on the Drawings, shall be furnished and installed the same as though both shown on the Drawings and required by the Specifications. 10) Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the <u>Scope of Work</u>, Agency is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Construction Contractor to deliver and install only products that are already safe and compliant. 11) Construction Contractor shall pursue with diligence the procurement of any long-lead-material or equipment required for the Work and provide the Agency Designated Representative with an anticipated and consistently updated schedule for the delivery. 12) Materials and equipment procured and installed by the Construction Contractor shall be in accordance with Specifications and derived from the energy life cycle Cost analysis pursuant to the latest revision of A.R.S. §34-452. 13) For any Agency furnished equipment or Material that will be in the care, custody, and control of Construction Contractor, Construction Contractor is responsible for damage or loss. Agency shall deliver to Construction Contractor a complete list and respective values of such Materials or equipment and make an equitable adjustment to the contract amount for any increase in Cost of Builder's Risk insurance. 14) Construction Contractor shall provide and install weather-tight or temporary enclosures for protection of in progress and completed construction Work from exposure and weather. Construction Contractor shall remove protection when no longer needed. 15) Construction Contractor shall store Materials in their original packaging with any and all seals and labels intact and visible. 16) Construction Contractor shall remove Agency-salvaged items with care and in a workmanship-like manner and deliver items not being reinstalled, ready for use, to a nearby area as instructed by the Agency Designated Representative. |
| <p>11.31 <u>Life Cycle Cost Analysis</u></p> | <p>Upon the request of the Agency, the Design Professional shall perform Life Cycle Cost Analysis (LCCA) to evaluate alternative Materials and systems by preparing an economic assessment of all significant Costs of ownership over the economic life.</p> |
| <p>11.32 <u>Management and Supervision of the Work, Design Professional Service</u></p> | <p>Design Professional shall bear the primary responsibility for the management and supervision of the Work for Design. At a minimum, the Design Professional shall regularly consult with the Agency and receive any and all necessary Agency approvals; provide updated Cost estimates and gain approval for any material changes to Cost estimates through a Change Order prior to incurring those Costs; thoroughly research all the design elements upon which the Work relies; attend meetings related to the Work; communicate fully with all Construction Contractors, as necessary and appropriate; and provide the Agency with regular reports on the status of the Work.</p> |
| <p>11.33 <u>Meeting Minutes</u></p> | <p>Design Professional or Agency authorized design professional substitute, shall attend and draft complete minutes of each Project design and construction meeting between Design</p> |



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| | Professional, Agency and Construction Contractor, and submit them to Agency for approval within five (5) calendar days after each Project conference. |
| 11.34 Observations | Design Professional shall bear the primary responsibility for the management and supervision of the Work for Design. At a minimum, the Design Professional shall regularly consult with the Agency and receive any and all necessary Agency approvals; provide updated Cost estimates and gain approval for any material changes to Cost estimates through a Change Order prior to incurring those Costs; thoroughly research all the design elements upon which the Work relies; attend meetings related to the Work; communicate fully with all Construction Contractors, as necessary and appropriate; and provide the Agency with regular reports on the status of the Work. |
| 11.35 Outline Specifications | <ol style="list-style-type: none"> 1) Design Professional shall outline specifications with a detailed description of all building components and systems shall include: <ol style="list-style-type: none"> a) An index showing all divisions and sections intended to be used. The format shall be that recommended by the Construction Specifications Institute (CSI), narrow scope type. b) All technical sections in outline specification format (Part 2 of a narrow scope CSI specification). 2) Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Construction Contractor in dividing the Work among Subcontractor and/or Subconsultants or in establishing the extent of Work to be performed by any Subcontractor and/or Subconsultant. |
| 11.36 Pre-Bid Conference Site Visit | Agency's Procurement Officer may conduct, and Design Professional and its Subconsultants and/or Subcontractors shall attend and participate in pre-bid conferences and pre-bid Site visits with potential bidders to help identify questions that bidders may raise during the Bidding phase. Questions from prospective Bidders shall be collected by the Agency's Procurement Officer during these conferences and Site visits. No questions shall be answered at these events which require interpretation, clarification or modifications of the Contract Documents |
| 11.37 Preconstruction Conference | Agency may conduct a Preconstruction conference after Contract award and before Construction Contractor starts Work at the Project Site. Conference discussion will establish the lines of communication among the parties as to the Work, coordination of Work, and procedures and handling of the Schedule of Values, Shop Drawing and other submittals, Construction Schedule, and Payment Application processing. The Construction Contractor, Construction Contractor's Superintendent, and Construction Contractor's designated safety officer shall attend the Pre-Construction Conference. The Design Professional shall attend if requested by Agency. |
| 11.38 Program and Budget Review | Agency will furnish the Project program to Design Professional at the start of Schematic Design. Design Professional shall evaluate the Project's programmatic requirements, promptly call attention to any discrepancy contained therein, and request direction from the Agency's Designated Representative. |
| 11.39 Project Closeout | Construction Contractor shall submit Project Close Out documents as listed in Exhibit M in appropriate quantities as indicated in the Contract Documents to the Construction Contractor. Construction Contractor shall ensure documents are complete and accurate and provide written acceptance to the Agency. Construction Contractor shall not submit final Application for Payment until documents are accepted by the Agency. |
| 11.40 Proposed Change Order Review | <ol style="list-style-type: none"> 1) During performance of Construction Phase Services, the Design Professional shall review Construction Contractor's proposed Change Order(s) for fairness of pricing and |



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| | <p>make recommendations to the Agency on fairness of pricing for the Materials and Work.</p> <p>2) Any Construction Contractor proposed Change Order shall include the estimate of Cost and of probable effect of delay on progress of the Work if any.</p> |
| <p>11.41 <u>Proprietary Specifications</u></p> | <p>1) Under A.R.S. § 34-104, if a Design Professional or the Agency includes bidding, contracting, or purchasing specifications that are proprietary to one supplier, distributor, or manufacturer, then the details of the essential characteristic of that product will be included in the Special Terms and General Conditions with a statement indicating that the Design Professional shall consider alternative products which have the aforementioned desired essential characteristics.</p> <p>2) Design Professional shall consider, and either approve or reject, any and all alternative product proposals that are submitted at least eight (8) days prior to the deadline for receiving bids for this Solicitation. If any alternative product proposal is approved, the Design Professional shall modify the bidding documents to include the alternative product proposal by the end of the fifth day prior to the deadline for receiving bids and publish the documents that same day. If the Design Professional rejects any alternative product proposal, the Design Professional shall provide the Agency with notice of that rejection, including the details of the alternative product proposal, prior to the deadline for receiving bids.</p> <p>3) No modifications shall be made without the approval of the agency</p> |
| <p>11.42 <u>Quality Assurance</u></p> | <p>The Design Professional person or firm shall have a well-coordinated internal Quality Assurance program for review of documents, plan check, and incorporates the Agency's drawings and specification requirements to assure consistent submittal to Statutory Review.</p> |
| <p>11.43 <u>Record Documents</u></p> | <p>1) UPDATING RECORD DOCUMENTS. Design Professional or other party specified by the Agency Designated Representative shall be responsible for updating the Record Documents for all Construction Contractor initiated documents and changes to the Contract Documents due to coordination and actual field conditions, including RFIs. Design Professional shall be responsible for updating the Record Documents for any addenda, Change Orders, Design Professional supplemental instructions and any other alterations to the Contract Documents generated by Design Professional or Agency.</p> <p>2) MAINTAIN AT SITE. Construction Contractor shall maintain at the Site one copy of all Drawings, Specifications, addenda, approved submittals, Contract modifications, Schedules and all Project correspondence and provide Agency and Design Professional access to these documents for reference and examination. Contractor shall keep current and maintain Drawings and Specifications in good order with postings and markings to record actual conditions of Work and show and reference all changes made during construction and reflect the actual field conditions and representations of the Work performed, whether it be directed by addendum, Change Order or otherwise.</p> <p>3) MONTHLY UPDATE. Record Documents shall be updated a minimum of monthly prior to submission of a Payment Application or as otherwise directed by Agency. Construction Contractor failure to maintain current Record Documents shall constitute cause for Agency denial of a Progress Payment otherwise due.</p> <p>4) TRANSFER OF RECORD DOCUMENTS TO AGENCY. Construction Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties and like publications, or parts for all installed equipment, systems, and like items and as described in the Contract Documents prior to requesting Substantial Completion inspection with the Design Professional.</p> |



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| | <p>5) After review by the Design Professional and acceptance by the Agency Designated Representative, one (1) electronic media copy and one (1) reproducible copy of the Record Documents shall be provided in the format designated by the Agency Designated Representative.</p> <p>6) PREPARATION OF RECORD DOCUMENTS. Record Documents shall be carefully and neatly prepared by a competent drafter familiar with the Work.</p> |
| <p>11.44 Requirements at Location</p> | <p>1) Contractor acknowledges that the location of its Work for the Project might be inside an industrial building, institutional building, or one of various office types and classes and Contractor personnel shall conduct themselves cordially and professionally with Agency personnel and the public.</p> <p>2) When performing the Work requires Construction Contractor personnel to Work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Construction Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for Work, visitor dress code, and other applicable rules. Agency will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Construction Contractor has failed to make the confirmation or comply with the applicable conditions.</p> <p>3) Construction Contractor shall ensure Construction Contractor personnel and Subconsultants and/or Subcontractors performing Work at the Project Site:</p> <ol style="list-style-type: none"> a) Park in any assigned location at the Site; b) Have proper State or federal issued identification within their possession at all times; c) No eating, drinking, or smoking except in designated areas. d) Construction Contractor shall adequately monitor and control noise levels. |
| <p>11.45 Schedule of Values</p> | <p>Prior to the execution of Work, the Construction Contractor shall submit to the Design Professional and Agency for approval a Schedule of Values (See Exhibit R) allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy. This Schedule of Values, unless objected to by the Design Professional and/or Agency Designated Representative, shall be used as a basis for reviewing the Construction Contractor's Payment Applications. The Schedule of Values shall include quantities and unit prices aggregating the Contract Cost, and for lump sum items shall subdivide the Work into component parts in sufficient detail to serve as the basis for Progress Payments during construction.</p> |
| <p>11.46 Shop Drawings, Product Data and Samples</p> | <p>1) The Construction Contractor shall maintain at the Site for the Agency one record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Design Professional and/or Agency and shall be delivered to the Design Professional for submittal to the Agency upon completion of the Work.</p> <p>2) Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Construction Contractor proposes to conform to the information given and the design concept expressed in the Contract.</p> <p>3) The Construction Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the</p> |



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| | <p>respective submittal has been reviewed and approved or other appropriate action taken by the Design Professional and/or Agency. Such Work shall be in accordance with approved submittals.</p> <ol style="list-style-type: none"> 4) The Construction Contractor shall not be relieved of responsibility for deviations from requirements of the Contract by the Design Professional's and/or Agency's review and approval of Shop Drawings, Product Data, Samples or similar submittals unless the Construction Contractor has specifically informed the Design Professional and/or Agency's in writing of such deviation at the time of submittal and the Design Professional and/or Agency has given written approval to the specific deviation. The Construction Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Design Professional's and/or Agency's approval thereof. 5) The Construction Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, product Data, Samples or similar submittals, to revisions other than those requested by the Design Professional on previous submittals. 6) When professional certification of performance criteria of Materials, systems or equipment is required by the Contract, the Construction Contractor shall be entitled to rely upon the accuracy and completeness of such calculations and certifications but shall use due care and identify and notify the Agency of any palpable errors. 7) Construction Contractor shall submit Shop Drawings to the Design Professional and State Fire Marshall or appropriate authority having jurisdiction for any required modifications to sprinkler or alarm system Work. 8) Construction Contractor will update to show actual conditions for Work specified and shall submit final Shop Drawings to Agency. |
| <p>11.47 <u>Special Inspections and Testing</u></p> | <p>The Design Professional shall recommend special inspection or testing and any retesting of the Work in accordance with the provisions of the Contract Documents if, in Design Professional's reasonable opinion, such inspection or testing or retesting is necessary or advisable for the implementation of the Contract Documents, regardless of the state of completion of the Work subject to such inspection or testing or retesting.</p> |
| <p>11.48 <u>Specification Submittal Requirements: Design Professional</u></p> | <ol style="list-style-type: none"> 1) Specifications shall be in CSI format. Each specification section shall be saved as a document file named with the corresponding Master format number (e.g., 134010.doc). 2) Design Professional shall submit a list of each item of equipment and/or each system to be designated as sole source by the notation in the documents, "or equivalent (no known equivalent)". This list shall include the following information: <ol style="list-style-type: none"> a) Description of each item of equipment and/or each system; b) Provide estimated Cost of each item of equipment and/or each system; Agency Procurement Officer shall write determination justification as to why each item of equipment and/or each system needs to be from a sole brand name or source. c) Include brief performance specifications detailing those features which, because they are unique or state-of-the-art, or the preclude use of an alternative product. 3) Specifications shall be: <ol style="list-style-type: none"> a) Complete, coordinated and consistent with each other and the drawings. b) Coordinated with the Agency's General Conditions and Requirements. c) Written for a two-party Contract between the Agency and the Contractor. d) Written with open specifications for material and equipment except in specifically permitted exceptions in conjunction with Agency Procurement Officer's approved written determination of sole brand name or source. |



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| <p><u>11.49 Statutory Review</u></p> | <ol style="list-style-type: none"> 1) The Design Professional shall design and prepare the Construction Documents in compliance with all applicable laws, codes, regulations, and generally accepted engineering and design standards, and shall incorporate any and all Agency Standards where applicable to their Work. 2) The Design Professional shall submit final Construction Documents for review to the Agency Designated Representative for submittal to the Statutory Review. Design Professional shall verify presentation requirements for the review with the Agency's Designated Representative. The Arizona Department of Administration Statutory Review is the authority having jurisdiction and is the enforcement agency for code requirements. 3) The initial submission fee and one (1) re-review fee for submission to the Statutory Review may be paid by the Agency or paid by Design Professional firm a part of a Reimbursable Expense as requested by the Agency. Any subsequent submission fees shall be paid by the Design Professional firm in accordance with the Solicitation Performance Guarantee requirements. 4) Design Professional shall give Agency sufficient rights and privileges to use to any and all Design Professional Work in furtherance of the Scope of Work including, but not limited to, distribution and submission of Design Professional Work 5) A State Inspector will conduct regular inspections and the Work must be in compliance before permanent occupancy will be allowed. Regular inspections must be performed at each stage of construction prior to concealment or cover. |
| <p><u>11.50 Structural, Mechanical, Electrical, Calculations</u></p> | <p>Design Professional shall provide Agency the Project structural, mechanical, and electrical calculations upon request. Calculations shall be checked and stamped by an engineer registered in the applicable discipline.</p> |
| <p><u>11.51 Submittal Register</u></p> | <p>The Construction Contractor shall prepare and keep current, for the Design Professional's approval, a schedule of submittals which is coordinated with the Construction Contractor's Schedule and allows the Design Professional reasonable time to review Submittals.</p> |
| <p><u>11.52 Substantial and Final Completion</u></p> | <ol style="list-style-type: none"> 1) When the Construction Contractor considers that the Work, or a portion thereof, is substantially complete, the Construction Contractor shall prepare and submit to the Agency and/or Design Professional a comprehensive list of items (Punch List) to be completed or corrected prior to final payment. Failure to include an item on the Punch List does not alter the responsibility of the Construction Contractor to complete all Work in accordance with the Contract Documents. 2) The Agency and/or Design Professional will perform an inspection of the Work within five (5) days to accept or reject the Punch List to determine whether the Work or designated portion thereof is substantially complete. If the Agency and/or Design Professional's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents, the Contractor shall complete and or correct those items and then submit a request to the Owner and Design Professional for another inspection to determine Substantial Completion of the Work. 3) EXHIBIT K – SUBSTANTIAL COMPLETION CERTIFICATE. When the Work, or designated portion thereof, is Substantially Complete, the Design Professional and/or Owner will prepare a Certificate of Substantial Completion (Certificate) that shall establish the Substantial Completion date, establish responsibilities of the Owner and Contractor to include, but not limited to: security, maintenance, heat, air conditioning, utilities, damage to the Work and insurance. The Certificate will establish the date and time within which the Contractor shall finish all Punch List items attached thereto. |



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| | <p>Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided in the Certificate of Substantial Completion.</p> <ol style="list-style-type: none"> 4) Construction Contractor shall submit an Exhibit H-Application for Payment for payment of all Work, less retention if retention was held. If retention was not held, final payment will not be issued until all items listed on Exhibit M-Contractor Project Closeout have been received by the Agency. 5) PARTIAL OCCUPANCY. The Agency may occupy or use a portion of the Project prior to Contract completion if the authority having jurisdiction over the Project authorizes the Agency to occupy the portion of the Project. The Construction Contractor shall proceed with submission to the Agency for a Substantial Completion inspection for the portion of the Work Project prior to the Agency occupying or using a portion of the Project. 6) EXHIBIT L – FINAL COMPLETION CERTIFICATE. The date of Final Completion of the Contractor’s Work is the date signed by the Design Professional, Contractor, Compliance Officer and Project Manager that all Work is 100% complete in accordance with the Contract Documents including all those items listed on Exhibit M-Contractor Project Closeout. The Construction Contractor will submit an Application for Final Payment for certification by the Agency. |
| <p>11.53 <u>Substitution of Material or Equipment</u></p> | <ol style="list-style-type: none"> 1) Construction Contractor shall not order or install any substitute Material or equipment without the Agency Designated Representative prior written approval of the substitute. 2) If Contract is a firm fixed price, all substitution requests shall be submitted by the Construction Contractor in accordance with the Solicitation Instructions to Offerors and approved by the Agency Designated Representative prior to the Bid Opening Date listed in the State e-procurement system. Prior to the Bid Opening Date, the Agency Procurement Officer issued Addenda authorizing use of the substitute shall serve as the written approval. 3) Agency Designated Representative shall review all Construction Contractor furnished data for review to include maintenance, repair, and replacement for the proposed substitute. 4) The Agency may not approve any extension of Contract time for Construction Contractor Project completion due to a substitute unless Agency determines the time extension is in the best interest of the Agency. |
| <p>11.54 <u>Supervision and Project Administration</u></p> | <ol style="list-style-type: none"> 1) The Construction Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract either by activities or duties of the Agency in the Agency's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Construction Contractor. The Construction Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract either by activities or duties of the Agency in the Agency's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Construction Contractor. 2) The Construction Contractor shall supervise and direct the Work using the Construction Contractor's best skill and attention. 3) Construction Contractor shall provide project administration for all Construction Contractor’s Subcontractor and/or Subconsultants, vendors, suppliers, and others involved in implementing the Work and shall coordinate administration efforts with those of the Construction Contractor and Agency Designated Representative. |



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| | <p>4) Construction Contractor’s project administration includes periodic daily reporting on weather, Work progress, labor, Materials, equipment, any and all obstructions to prosecution of the Work, accidents and injuries, and transmitted no less frequently to the Agency Designated Representative than on a weekly basis.</p> <p>5) The Construction Contractor shall be responsible to the Agency for acts and omissions of the Construction Contractor’s employees, Subcontractor and/or Subconsultants and their agents and employees, and other persons performing portions of the Work for the Construction Contractor.</p> |
| <p>11.55 Transition</p> | <p>If needed, during commencement, Construction Contractor shall attend transition meetings with any outgoing Construction Contractors to coordinate and ease the transition so that the effect on Agency’s operations is kept to a minimum. Agency may elect to have outgoing Construction Contractors complete some or all of their Work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract. Upon the expiration or termination of the Contract, Construction Contractor shall Work closely with any new (incoming) Construction Contractor and Agency to ensure as smooth and complete a transfer as is practicable. Agency’s representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Construction Contractor and the incoming vendor. As with the incoming transition.</p> |
| <p>11.56 Unknown, Unforeseen, or Concealed Conditions</p> | <p>1) If conditions are encountered at the Site which are (a) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (b) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than twenty four hours after first observance of the conditions.</p> <p>2) It is understood that Construction Contractor, prior to award, has inspected the Site, was free to do its own tests and inspections, and in undertaking this contract, warrants that the Site is suitable for construction and accepts the risk of all Site conditions.</p> <p>3) Any reports and Materials provided to Construction Contractor prior to construction are for informational purposes only. However, if Construction Contractor believes that the Agency materially misrepresented the condition of the Site then the Agency will promptly investigate such conditions. Should the Agency determine that the Site differs from the Contract Documents such that there will be a material change to Construction Contractor’s Contract Cost and/or Schedule for the performance of any part of the Work, then the Agency will recommend an equitable adjustment in the Contract Cost and/or Contract time. If the Agency determines that the conditions at the Site are not materially different from those indicated in the Contract Documents, and no change in the Construction Contractor’s Cost or Schedule is justified, then the Agency shall so notify the Construction Contractor in writing stating the reasons.</p> |
| <p>11.57 Use of Seals; Design Professionals</p> | <p>“Seal” refers to the type of “seal” required by A.R.S. § 32-101, <i>et seq.</i>, and the rules promulgated thereunder, A.A.C. R4-30-01, <i>et seq.</i>, or any equivalent licensing body, for use on Work performed by Contractors. Contractor shall affix its Seal to any and all documents required by the Work that are incomplete without such a Seal including, but not limited to, design specifications, data, and construction drawings. Contractor will accept professional responsibility for its Work including, but not limited to, any and all information upon which its Seal is affixed.</p> |



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| <p>11.58 Work Performance; Design Professional</p> | <p>The Design Professional will perform Work under this Contract with the degree of skill and care ordinarily provided by competent professional engineers, architects, or consultants practicing in the same or similar locality and under the same or similar circumstances and professional license and as expeditiously as is prudent, considering the ordinary professional skill and care of a competent engineer, architect, or other consultant.</p> |
| <p>12. AGENCY RESPONSIBILITIES</p> | |
| <p>12.1 Access to Work Site</p> | <p>The Agency will provide Design Professional with access to the Work Site, as necessary, for the preparation for, and review of, the Work.</p> |
| <p>12.2 Accuracy of Information</p> | <p>Agency may provide in the Solicitation, or by other means, any reports of investigations and tests of subsurface and latent physical conditions at the Site, and any reports of conditions that otherwise may affect Cost. These reports are not intended to constitute any explicit or implicit representation as to the nature of the subsurface and latent physical conditions which may be encountered at the Site or to constitute explicit or implicit representations as to any other matter contained in any report. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents.</p> |
| <p>12.3 Budget</p> | <p>The Agency may create a budget for the Work. If applicable, the Agency may update the budget, as needed. The budget may include the Estimated Contract Cost, Agency's other Costs for the Project, Contingencies, and Reimbursable Expenses.</p> |
| <p>12.4 Errors or Omissions</p> | <p>The Agency will promptly notify the Contractor in writing if it becomes aware of a material error, potential error, or omission in the Work, Design Requirements, and/or Construction Documents.</p> |
| <p>12.5 Site Information</p> | <p>The Agency will provide the Design Professional with basic information regarding the Site locations at which the Work will be performed. This basic information may include surveys, Site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations.</p> |
| <p>12.6 Geotechnical Engineers</p> | <p>If applicable, the Agency will provide geotechnical expertise it deems sufficient to support the Work, including but not limited to, the necessary soil testing, written reports, and recommendations.</p> |
| <p>12.7 Testing</p> | <p>The Agency will provide legally or contractually required environmental testing including tests for hazardous materials, and air and water pollution.</p> |
| <p>12.8 Communications</p> | <p>The Agency will facilitate communication between Design Professional and Construction Contractor, as needed, on the Work necessary to fully perform the Contract, unless direct communication between Design Professional and Construction Contractor has been explicitly authorized.</p> |
| <p>12.9 Design Professional Agreements, Related Construction</p> | <p>The Agency will meet with the Design Professional to coordinate its Work prior to finalizing a related Construction Contract. Any related Construction Contracts will be made available to the Design Professional through the State's eProcurement system.</p> |
| <p>12.10 Promotional Materials</p> | <p>Agency will endeavor to timely review and respond to any written Design Professional request for permission for use of photographic or other artistic representation of the Work for promotional or other professional materials. Agency shall have full discretion to determine whether to allow Design Professional use of the representations.</p> |
| <p>12.11 Substitutions of Material</p> | <p>Design Professional and/or Agency shall approve any and all substitutions that would cause a change in the Work of the Construction Contractor.</p> |
| <p>12.12 Timely Review</p> | <p>The Agency will endeavor to timely review and respond to any requests from the Construction Contractor that the Construction Contractor deems necessary to avoid delay or modification to the Schedule.</p> |



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13. DATA AND INFORMATION HANDLING

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| <p>13.1 Applicability 13.1 Applicability</p> | <p>Article 13 applies to the extent the Work includes handling of any (a) Agency’s proprietary and sensitive data or (b) confidential or access-restricted information obtained from Agency or from others at Agency’s behest.</p> |
| <p>13.2 Data Protection and Confidentiality of Information</p> | <p>1) Design Professional warrants that it will establish and maintain procedures and controls acceptable to Agency for ensuring that Agency’s proprietary and sensitive data is protected from unauthorized access and information obtained from Agency or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Design Professional in any way related to the Contract, provided to Design Professional by Agency, or prepared by others for Agency are proprietary to Agency, and all information by those same avenues is Agency’s confidential information. To comply with the foregoing warrant:</p> <p>a) Design Professional shall:</p> <ul style="list-style-type: none"> i) Notify Agency immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; ii) Cooperate with Agency to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and iii) Notify Agency promptly of any security threat that could result in unauthorized access or inappropriate disclosures. <p>b) Design Professional shall not:</p> <ul style="list-style-type: none"> i) Release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person’s individual performance of his or her duties under the Contract, unless Agency has agreed otherwise in advance and in writing; or ii) Respond to any requests it receives from a third party for such data or information, and instead route all such requests to Agency’s designated representative. |
| <p>13.3 Personally Identifiable Information</p> | <p>1) Design Professional warrants that it will protect any personally identifiable information (“PII”) belonging to Agency’s employees’ or other Design Professionals or members of the general public that it receives from Agency or otherwise acquires in its performance under the Contract.</p> <p>2) For purposes of this paragraph:</p> <ul style="list-style-type: none"> a) PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and b) “Protect” means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) <i>Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information</i>. <p>NOTE (1): For convenience of reference only, the OMB memorandum is available at: https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf</p> |



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| | NOTE (2): For convenience of reference only, the GSA directive is available at: http://www.gsa.gov/portal/directive/d0/content/658222 |
| <p>13.4 Protected Health Information</p> | <p>1) Design Professional warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information (“PHI”) and electronic PHI (“ePHI”) as defined in the Privacy Rule referred to below), it:</p> <ul style="list-style-type: none"> a) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (1) the “Privacy Rule” in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996; (2) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 (“ERISA”) as amended; and (3) Agency’s current and published PHI/ePHI privacy and security policies and procedures; b) Will cooperate with Agency in the course of performing under the Contract so that both Agency and Contractor stay in compliance with the requirements in (a) above; and c) Will sign any documents that are reasonably necessary to keep both Agency and Contractor in compliance with the requirements in (a) above, in particular “Business Associate Agreements” in accordance with the Privacy Rule. <p>NOTE: For convenience of reference only, the Privacy Rule is available at: http://www.hhs.gov/hipaa/for-professionals/privacy/index.html</p> |
| 14. INFORMATION TECHNOLOGY WORK | |
| <p>14.1 Applicability 14.1 Applicability</p> | Article 14 applies to any Invitation for Bids, Request for Qualifications, or Request for Quotations for "Information Technology," as defined in A.R.S. § 41-3501(6) 6: “computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects” if and to the extent that the Work is or includes Information Technology. |
| <p>14.2 Information Access</p> | <p>1) SYSTEM MEASURES. Design Professional shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting Agency’s proprietary data or confidential information.</p> <p>2) INDIVIDUAL MEASURES. Design Professional personnel shall comply with applicable Agency policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Design Professional is responsible to Agency for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Design Professional shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Design Professional shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel.</p> <p>3) ACCESS CONTROL. Design Professional is responsible to Agency for ensuring that hardware, software, data, information, and that has been provided by Agency or belongs to or is in the custody of Agency and is accessed or accessible by Design Professional personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted</p> |



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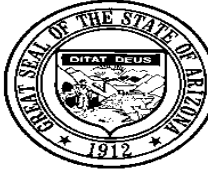
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| | <p>under the Contract. Agency may restrict access by Construction Contractor personnel, or instruct Design Professional to restrict access their access, if in its determination the requirements of this subparagraph are not being met.</p> |
| <p>14.3 <u>Pass-Through Indemnity</u></p> | <ol style="list-style-type: none"> 1) INDEMNITY FROM THIRD PARTY. For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Design Professional may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to Agency such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with Agency in enforcing that indemnity. If the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify Agency Indemnitees to the extent and degree Design Professional is required to do by the Uniform Terms and Conditions, then Design Professional shall indemnify, defend and hold harmless Agency Indemnitees to the extent the Pass-Through Indemnity does not. 2) NOTIFY OF CLAIMS. Agency shall notify Design Professional promptly of any claim to which a Pass-Through Indemnity might apply. Design Professional, with reasonable consultation from Agency, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that: <ol style="list-style-type: none"> a) Agency reserves the right to elect to participate in the action at its own expense; b) Agency reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and c) Agency shall in any case cooperate in the defense and any related settlement negotiations. |
| <p>14.4 <u>Redress of Infringement</u></p> | <ol style="list-style-type: none"> 1) REPLACE, LICENSE, OR MODIFY. If Construction Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Construction Contractor shall at its sole Cost and expense and in consultation with Agency either: <ol style="list-style-type: none"> a) Replace any infringing items with non-infringing ones; b) Obtain for Agency the right to continue using the infringing items; or c) Modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification. 2) CANCELLATION OPTION. In every case under 14.4, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, Agency may cancel the relevant Order or terminate the Contract and Construction Contractor shall take back the infringing items. If Agency does cancel the Order or terminate the Contract, Construction Contractor shall refund to Agency: <ol style="list-style-type: none"> a) For any software created for Agency under the Contract, the amount Agency paid to Contractor for creating it; b) For all other Materials, the net book value of the product or actual monies paid by the Agency provided according to generally accepted accounting principles; and c) For Services, the amount paid by Agency or an amount equal to twelve (12) months of charges, whichever is less. 3) EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee: |



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| | |
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| | <ul style="list-style-type: none"> a) Modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor; b) Operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or c) Combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor. |
| <p>14.5 First Party Liability Limitation</p> | <ul style="list-style-type: none"> 1) LIMIT. Subject to the provisos that follow below and unless stated otherwise in the <u>Special Terms and General Conditions</u>, Agency's first party liability arising from or related to the Contract is limited to the lesser of \$1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim. 2) PROVISIONS. This paragraph limits liability of any and all damages to which Contractor is entitled under this Contract for contract breaches or that comes out of performance or concerns this contract, regardless of the legal theory under which the liability is asserted. This paragraph 14.5 does not the effect of paragraph 6.2 of this Contract: 3) PURCHASE PRICE DETERMINATION. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.6.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all change orders or other forms of Contract Amendment having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order. 4) NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Design Professional is required by the Contract to provide, and Design Professional shall obtain express endorsements that it does not. |
| <p>14.6 Information Technology Warranty</p> | <ul style="list-style-type: none"> 1) SYSTEM MEASURES. Design Professional shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting Agency's proprietary data or confidential information. 2) INDIVIDUAL MEASURES. Design Professional personnel shall comply with applicable Agency policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Design Professional is responsible to Agency for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Design Professional shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Design Professional shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel. 3) ACCESS CONTROL. Design Professional is responsible to Agency for ensuring that hardware, software, data, information, and that has been provided by Agency or belongs to or is in the custody of Agency and is accessed or accessible by Design Professional personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. Agency may restrict access by Design Professional personnel, or instruct Design Professional to restrict access their access, if in its determination the requirements of this subparagraph are not being met. |



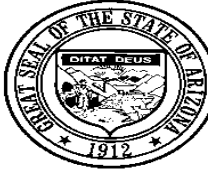
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14.7 Specific Remedies

Unless expressly stated otherwise elsewhere in the Contract, Agency's remedy for breach of warranty under this Contract includes, at Agency's discretion, re-performance, repair, replacement, or refund of any amounts paid by Agency for the nonconforming Work, plus (in every case) Design Professional's payment of Agency's additional, documented, and reasonable Costs to procure Materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the First Party Liability Limitation in paragraph 14.5. If none of the forgoing options can reasonably be affected, or if the use of the Materials by Agency is made impractical by the nonconformance, then Agency may seek any remedy available to it under law.

End of Uniform Terms and Conditions



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STATEMENT OF WORK

1.0 INTRODUCTION

The State is requesting that qualified engineering firms submit Statements of Qualifications for on-call professional services.

Qualified firms may submit one or more SOQs as desired by discipline or may choose to submit a combined SOQ. Please make clear the intended discipline. Not more than 10 contracts may be awarded per discipline.

The objective of the State is to evaluate impacts to State Trust Land associated with proposed infrastructure projects and to prepare State Trust Land for future disposition and development.

2.0 BACKGROUND

The Department of Administration, General Services Division, in cooperation with the Arizona State Land Department (ASLD) has elected to contract with multiple qualified professionals to provide on-call, as needed services for projects of varying size and complexity.

The core mission of the ASLD is to manage State Trust lands as a multi-generational Trust in perpetuity. Trust revenues support 13 different beneficiaries including the Universities, the Arizona State Hospital, and the largest of the beneficiaries is K-12 Education.

In order to do this, ASLD determines the highest and best use for each parcel of Trust land. The Department may lease, auction, or hold the land, depending on what action will provide the best benefit to the Trust Beneficiaries.

3.0 LAND SURVEYING SCOPE REQUIREMENTS

The consultant shall be capable of providing ALTA Land Surveying services on Arizona State Trust properties. In addition to the design, the consultant shall be capable of providing survey, reports, studies, master planning, conceptual designs, construction administration, specifications, permitting, and budget estimates on an as needed basis. The consultant may supply all services ancillary to the projects. The consultant must be an Arizona registrant and properly licensed and certified to perform services in Arizona.

The Contractor will have the qualifications and internal capacity necessary to carry out the following surveying-related tasks to bring State Trust Land to auction. All services do not need to be performed in-house; the consultant shall be able to assemble a team to perform the required task.

3.1 General Requirements

3.1-A Projects will be directed by an Arizona State Land Department (ASLD), Project Manager, or other requesting agency, and will result in a Task Order to the



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awarded On-Call Contract. The consultants will perform all services and construction administration required to achieve substantial completion.

3.1-B The purpose of this Request for Qualifications (RFQual) is to obtain competitive Statements of Qualifications (SOQ) for Land Surveying and Environmental Services.

3.2 **Specific Requirements:**

3.2-A The Contractor shall be required to utilize the services of a professional title company to obtain most recent title commitment.

3.2-B The Contractor will work directly with the State Agency that is responsible for the administration and oversight of this projects.

3.2-C Work performed shall conform to the minimum detail requirements for ALTA/NSPS Land Title Survey Standards (Effective, March 16, 2021). Contractor is responsible for obtaining the most current standards.

3.2-D The ALTA survey shall be prepared in accordance with a current title report and Schedule B and Table A.

4.0 ENVIRONMENTAL SITE ASSESSMENT SCOPE REQUIREMENTS

Contract services include performance of site management and site assessment. Services may include Phase I and II Environmental Site Assessments (ESAs) in accordance with current American Society of Testing Materials (ASTM) standards and U. S. Environmental Protection Agency (EPA) standards and/or guidelines. Some of the applicable ASTM standards are: E1527-13, E2247-08 and E1903-11. Other environmental services may include: Clean Water Act (CWA) Section 404 Permitting, Preliminary Jurisdictional Determination (PJD), Approved Jurisdictional Determination (AJD), Waters of the U.S. (WOTUS) Evaluation, Biological Evaluation.

The Contractor shall be capable of providing assistance the identification and recommendations of corrective actions necessary to mitigate or eliminate the health and environmental dangers posed by various pollutants.

4.1 General Requirements

4.1-A Work Plan Preparation may include the following documents:

4.1-A-(01) Quality Assurance Project Plans (QAPP) or Sampling and Analysis Plans (SAP): This includes preparation of a QAPP or a SAP. A QAPP or a SAP is site specific and should be prepared in accordance with the Task Order, if applicable. The QAPP or a SAP may also include development of data quality objectives

4.1-A-(02) Health and Safety Plan (HASP). Field Sampling Plan (FSP) and



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Work plan: Prepare a site-specific HASP and FSP. Both documents may be included as part of the Work plan.

4.1-B Work Plan may include the following items:

- 4.1-B-(01)** Locations of samples collected by all Contractors or Using Agency, which did investigations at the site
- 4.1-B-(02)** A map or maps using all available data may include the following:
 - (02) (a) Concentrations of contaminants in soil;
 - (02) (b) Groundwater contaminant map with flow directions; and
 - (02) (c) Contour groundwater quality data
- 4.1-B-(03)** Soil sample summary table (showing laboratory analyses and sample depth);
- 4.1-B-(04)** Groundwater data summary table (showing groundwater elevation and laboratory analyses);
- 4.1-B-(05)** A historical evaluation of the property describing past site uses;
- 4.1-B-(06)** Remediation system design, installation, operation and maintenance; and
- 4.1-B-(07)** Schedule of proposed work with times shown by units and not actual date.

4.2 Specific Requirements

- 4.2-A Access:** Negotiating property access with the property owners. Assist the Using Agency by providing back-up documentation, such as warranty deeds and any other information, considered vital to obtaining access.
- 4.2-B Phase I Environmental Site Assessments:** Conduct a Phase I ESA in accordance with ASTM current standards E 1527-13 and E2247-08.
 - 4.2-B-(01)** Phase I ESA are intended to determine the existence of recognized environmental conditions hazards, identify environmental liabilities and/or provide a preliminary screening to facilitate the assignment of site priorities. The major activities include visual inspection of the site and surrounding areas, document reviews, database reviews, aerial photographic interpretation, Geological background study and/or recommendations and conclusions
- 4.2-C Phase II Environmental Site Assessments:** Conduct a Phase II ESA in accordance with ASTM standards.
 - 4.2-C-(01)** A Phase II ESA is a site investigation/characterization that may



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determine the nature and extent of contamination in any and all affected environmental media at the site. The major activities include characterization and description of soils, groundwater, surface water, air or other affected environmental media with respect to location, nature, extent of migration of contamination sources and their proximity to potentially impacted receptors; characterization of the hydro- geologic setting to determine most likely contaminant migration pathways and physical features that could affect potential remedial actions; and the gathering of data and information to the extent necessary and sufficient to help quantify risk to public health and all aspects of the environment.

- 4.2-D** Environmental analysis to support Clean Water Act Section 404 Permitting requirements which may include Preliminary and Approved Jurisdictional Determinations, Compensatory Mitigation Analysis, Water of the U.S. Evaluation, Biological and/or Environmental Resources Evaluation.
- 4.2-E** **Contractor Support:** Provide support to the Using Agency to plan, monitor and control all work issued. The Contractor shall be responsible for making sure that all work is completed in a timely, cost-effective and competent manner. Support may include but is not limited to, Administrative, Technical and Professional.
- 4.2-F** **Subcontractor Management Cost:** Equipment rentals, commodities purchased, etc., with no mark-up, which are directly required for the completion of the project.
- 4.2-F-(01)** Subcontracted Services are defined as follows: e.g. well drillers, laboratory services, IDW containerization and transportation, utility locators, archaeologists, consultant services (i.e. community involvement, groundwater modeling risk assessors, etc.), and similar trade professions.
- 4.2-G** **Access Agreements and/or Consent Decrees:** The Contractor shall comply with all requirements established in Access Agreements and/or Consent Decrees entered into between the Using Agency and current/former property owners/operators regarding the site. The Using Agency's Project Manager shall provide any relevant information to the Contractor.



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5.0 DESIGN REQUIREMENTS

The Consultants shall provide all Design services required including but not limited to the following:

5.1-A Supporting Services

- 5.1-A-(01) Evaluation and documentation of as-built conditions.
- 5.1-A-(02) Testing and investigation as required as a reimbursable service.

5.1-B Evaluation and Planning

- 5.1-B-(02) Assist in evaluation of existing systems and priorities for improvement and replacement.
- 5.1-B-(03) Assist in developing appropriate budgets for identified projects.
- 5.1-B-(04) Assist in determining schedule and phasing for identified projects.

5.1-C Design Services

- 5.1-C-(01) Conceptual designs and studies as required.
- 5.1-C-(02) Development of design standards.
- 5.1-C-(03) Schematic design with alternative approaches for owner consideration.
- 5.1-C-(04) Design Development including outline specifications developing upon the schematic design.
- 5.1-C-(05) Construction Documents conforming to all applicable codes and containing the appropriate level of detail for the project to be accurately bid and efficiently constructed, with an updated estimate of probable construction cost.
- 5.1-C-(06) Bidding assistance for competitively bid work or assistance in obtaining quotes from current state Job Order Contract vendors.
- 5.1-C-(07) Contract Administration and Construction Observation services as required to sufficiently warrant that the construction is accomplished in accordance with plans, specifications and codes.

5.2 Design and Construction Administration

5.2-A *Schematic Design Phase (35%)*

- 5.2-A-(01) The detailed design services shall include, but not necessarily be limited to, all engineering, utility coordination and design,



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communication design, structural, mechanical, electrical and civil engineering.

5.2-A-(02) The Professional shall review all laws, codes and regulations applicable to the services requested.

5.2-B *Design Development Phase (60% plans)*

5.2-B-(01) Upon owner approval of the Schematic Design and upon authorization from the owner, the Architect shall proceed with Design Development Services. modifications.

5.2-B-(02) The Design and Development documents shall illustrate and describe the development of the approved Schematic Design documents.

5.2-C *Construction Documents Phase (100%-Final CD's)*

During this phase, the architect and its consultants, will finalize all components, systems, materials and details of the project.

5.2-C-(01) A final construction estimate itemized by priority and further refined from the facilities survey estimate, which provides a realistic cost the owner may expect.

5.2-C-(02) Preparation of architectural, mechanical, electrical, security system plans and specifications defining material types and finishes.

5.2-C-(03) Construction Documents which comply with all applicable State and local Code requirements.

5.2-C-(04) The documents level of detail must allow the project to be accurately bid and efficiently constructed and with minimum disruption to the occupied facilities in the surrounding area.

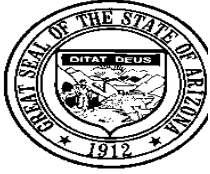
5.2-C-(05) Site work, as required for the respective facility to include drainage and grading.

5.2-C-(06) Onsite utilities as required for the program needs of the respective facility and connection to the local utility systems.

5.2-C-(07) Asphalt paving and striping of parking areas, access roads and interior roads, if any, may be required.

5.2-D *Construction Phase*

5.2-D-(01) Contract administration and construction observation services are required to sufficiently warrant that the construction or



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modifications are accomplished in accordance with the Contract Documents and code.

- 5.2-D-(02)** The Engineer shall be required to procure and provide for any and all Special Structural Inspections, which may be needed throughout the Construction Phase of this project to ensure that the construction or any modifications are accomplished in accordance with the Contract Documents, Plans, Specifications and all applicable codes and regulations.

5.3 Schedule for Solicitation

The following schedule has been prepared for this project.

Last Day to Submit Questions: Thursday, June 22, 2023, 2 PM, Arizona Time

SOQs Due: Tuesday, June 27, 2023 by 2 PM, Arizona Time

SOQ Evaluation/Short List: Week of July 10, 2023

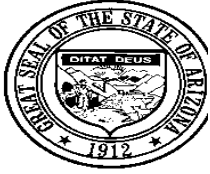
Negotiations: Week of July 10, 2023

Anticipated Award: July 21, 2023

5.4 State of Arizona Statutory Review Requirements

5.4-A Statutory Review

- 5.4-A-(01)** All design drawings and specifications will go through the State of Arizona Statutory Review Process which includes Code Compliance by a 3rd party plan review.
- 5.4-A-(02)** Design Professional shall submit plans and specifications and changes thereof for the project to the General Services Division for statutory review and final approval. Design submittals shall be coordinated with the Project Manager
- 5.4-A-(03)** Plans and specifications one hundred (100) percent complete submitted for final statutory review shall be allowed one re-review to correct deficiencies. The Contractor shall be charged for any



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subsequent re-reviews required by the Plan Examiner in the amount of \$120.00 per hour. Plan Examiner re-review fee charges shall be

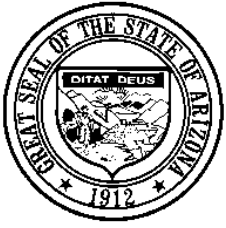
5.4-A-(04) deducted and reduce the Contractor's next monthly invoice amount due by the amount of the charge.

5.4-A-(05) Design Professional shall provide an electronic copy of all CADD design backgrounds created for this project to the Owner upon project closeout.

6.0 DESIGN PROFESSIONAL REQUIREMENTS

6.1 Licensing and Certifications

6.1-A Registration as a Technical Registrant in the State of Arizona at the time of SOQ submission.



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Attachments for BPM005468 On-Call ALTA Land Surveying & Environmental Services contains the forms that are to be submitted as part of the Offer when responding to this Solicitation. Unless stated otherwise, all pre-printed forms provided in this document shall be completed using the document provided according to the instructions as stated in the solicitation.

OFFEROR MAY SUBMIT MORE THAN ONE PROPOSAL. PLEASE INDICATE WHICH DISCIPLINE YOUR PROPOSAL IS BEING SUBMITTED FOR. UP TO 10 CONTRACTS CAN BE AWARDED FOR EACH DISCIPLINE.

- LAND SURVEYING** **ENVIRONMENTAL**

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE SOLICITATION BEFORE COMPLETING THESE FORMS AND SUBMITTING THE OFFER.

LIST OF ATTACHMENTS

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Attachment 2-A: Offeror Information Questionnaire 3
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APP Step-By-Step Guides and Quick Reference Guides are accessible on the APP website <https://appstate.az.gov>. Technical inquiries about submitting your offer in APP should be submitted to the APP Help Desk by phone at (602) 542-7600, option 1, or by email at app@azdoa.gov

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.



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Attachment 1: Offer and Acceptance Form

OFFER

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service and/or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status if checked below (No. 4).

| | |
|--|---|
| <input type="text" value="Company Name"/> | <input type="text" value="Signature of person authorized to sign"/> |
| <input type="text" value="Address"/> | <input type="text" value="Printed name and title"/> |
| <input type="text" value="City, State, ZIP"/> | <input type="text" value="Contact email address"/> |
| <input type="text" value="Contact Phone Number (Office)"/> | <input type="text" value="Contact Phone Number (Mobile)"/> |
| <input type="text" value="Unique Entity ID (SAM #)"/> | <input type="text" value="ROC #(s)"/> |
| <input type="text" value="Federal Tax Identifier (EIN or SSN)"/> | <input type="text" value="State Tax Identifier"/> |

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization IS/ IS NOT a small business with less than 100 employees or has gross revenues of \$4 million or less in prior FY.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

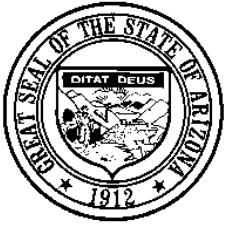
This Contract shall henceforth be referred to as Contract No. _____.

The effective date of the Contract is _____.

The Contractor is cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

State of Arizona Awarded this _____ day of _____ 2023

Procurement Officer _____



Request for Qualifications
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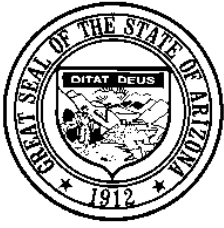
Attachment 2-A: Offeror Information Questionnaire

Failure to fully address all information requested may cause the statement of qualifications to be determined non-responsive.

- Describe the firm’s and the proposed lead team member’s previous design and construction administration experience for projects similar in size and scope to this project.
- Create a three-column chart. In the first column, list the past project title, budget, and year completed (listing only past projects with similar scope and budget within the past seven years) the firm has been the lead design professional. In the second column of the chart, list the names of any proposed key personnel and subcontractor(s) (if any) “team member” identified for this project that performed services for the project in column one and the team member’s role for the listed project. In column three provide best practices and lessons learned for each project.

| Past Projects (Within last seven years similar in size and scope.) | Proposed Key Personnel (Performing role on past project) | Best Practices and Lessons Learned |
|---|---|------------------------------------|
| (ex) Project x, \$4M, 20XX | John Doe, Architect | XXXXXXXXXX |
| (ex) Project y, \$2.6M, 20XX | John Doe, Architect Jane Doe, Mechanical Engineer Jo Doe, Electrical Engineer | YYYYYYYYYY |
| | | |
| | | |
| | | |

- In Attachment 3-B. Provide key personnel by the name, title, and directly responsible person who will be engaged in the work. An individual may be identified for more than one project discipline, or multiple individuals named to one single discipline. Describe each Individual’s specific qualifications and experience directly related to each type of Services proposed. Focus on the proposed individual’s specific duties and responsibilities and how project experience is relevant to each type of proposed Services.



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Attachment 2-B: Experience and Organizational Profile

Failure to fully address all information requested may cause the bid to be determined non-responsive.

| | | | |
|--|--|-------------------------|--|
| Firm Name | | Year Established | |
| Principal Address (Street, City, State) | | | |
| Years' Experience performing services similar in size and scope as required by this solicitation. | | | |
| Years the organization has conducted business in the State of Arizona. | | | |

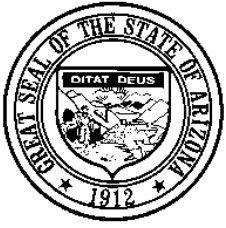
| CONTRACT REPRESENTATIVES TO CONTACT | | | | |
|-------------------------------------|------|-------|------------------|----------------|
| | Name | Title | Telephone Number | E-Mail Address |
| 1 | | | | |
| 2 | | | | |

THREE (3) PROJECTS COMPLETED BY FIRM SIMILAR IN SIZE AND SCOPE / REFERENCES

| 1 | Client Company/Address | Contact | Begin Date | End Date |
|---|------------------------|--------------|---------------|----------|
| | | | | |
| | | Phone Number | Email Address | |
| | | | | |
| Services Provided Similar to Those Described in Solicitation | | | | |

| 2 | Client Company/Address | Contact | Begin Date | End Date |
|---|------------------------|--------------|---------------|----------|
| | | | | |
| | | Phone Number | Email Address | |
| | | | | |
| Services Provided Similar to Those Described in Solicitation | | | | |

| 3 | Client Company/Address | Contact | Begin Date | End Date |
|---|------------------------|--------------|---------------|----------|
| | | | | |
| | | Phone Number | Email Address | |
| | | | | |
| Services Provided Similar to Those Described in Solicitation | | | | |



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Attachment 3-A: Method Proposal
 (Method of Approach)

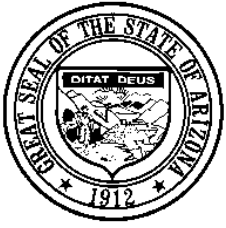
Response must demonstrate your comprehension of the objectives and services of this solicitation. Do not merely duplicate the description of work described in this Request for Qualifications (RFQ). Firms shall provide responses directly below the numbered questions in this attachment.

1. Substantiate how your team can most effectively undertake the requirements and responsibilities associated with the on-call professional services for the state of Arizona and your proposed team’s understanding of this scope of services by:
 - a) Providing an organizational chart clearly identifying the lines of authority.
 - b) Describing your current workload and availability of designated team staff (including Sub-Consultants). Indicate the relationship of the work in this RFQual to the firm’s other current projects.

The following chart may be utilized to show current workload of proposed team members. Additional lines may be added as needed.

| Project Team Member | Current Workload | Commitment | Total Availability |
|---------------------|------------------|------------|--------------------|
| Name and Title: | | | |
| | | | |
| | | | |
| | | | |
| Name and Title: | | | |
| | | | |
| | | | |
| | | | |
| Name and Title: | | | |
| | | | |
| | | | |
| | | | |

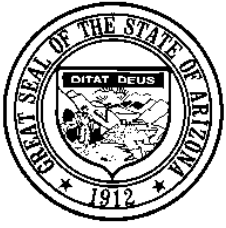
2. Describe your proposed team’s general approach to managing on-call projects of various sizes and complexity meeting the requirements as stated in the Statement of Work Section.



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3. Once the State has accepted the Design schedule, demonstrate how your firm will manage and maintain the schedule dates.
4. List standard turn-around time for design requests/changes, RFI's, submittals, and differing situations that may impact time constraints.
5. Detail your firm's quality control process related to specific plans, specifications and construction documents.
6. Does your firm have Procore Project Management Software usage experience?
7. Does your firm use dimension on the construction drawings? Explain your firm's design plans between scaling and dimensioning on Design drawings.
8. Are you able to put the pictures on the drawings with notes regarding tie-in points and locations?



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Attachment 3-B: Key Personnel Proposal

KEY PERSONNEL LIST

OFFEROR NAME: [Click or tap here to enter text.](#)

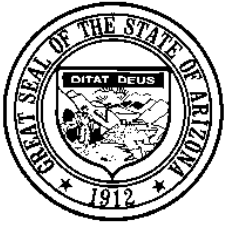
Instructions: Answer all questions thoroughly in the spaces provided. This form shall be completed for each key personnel involved in performance of this contract. A separate resume (maximum one (1) page) may be included using the second page of this Attachment. The resume is to be used to supply relevant information pertaining to the performance of this contract and is to be supplemental to the information below and is not to be used to replace this form.

[Click here to enter text.](#)

Employee Name

Current Information

| | |
|---|--|
| Position Currently Held in Firm: Click here to enter text. | |
| Years With Firm: Click here to enter text. | Years in Current Position: Click here to enter text. |
| Role Under this Contract: Click here to enter text. | |
| Years' Experience in Role Under This Contract: Click here to enter text. | Hours per Week of Employee's Time Dedicated to This Contract: Click here to enter text. |
| Will the key personnel be assigned to work on this contract exclusively? If not, indicate the percentage of the key personnel's time that will be dedicated to this contract. Click here to enter text. | |
| Identify the primary function(s) of the key personnel in performing the services required by this solicitation. Click here to enter text. | |
| Describe the key personnel's experience in performing the services required by this contract. Click here to enter text. | |
| List the key personnel's job-related training and education. Click here to enter text. | |

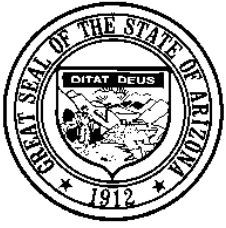


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KEY PERSONNEL RESUMES

(Insert resumes here)



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Attachment 3-C: Boycott of Israel Disclosure

Please note that if any of the following apply to this Solicitation, Contract, or Contractor, then the Offeror shall select the “Exempt Solicitation, Contract, or Contractor” option below:

- The Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. §35-393.01, public entities are prohibited from entering into contracts “unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel.”

Under A.R.S. §35-393:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) Based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
- ...
5. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

The certification below does not include boycotts prohibited by 50 United States Code Section 4842 or a regulation issued pursuant to that section. See A.R.S. §35-393.03.

In compliance with A.R.S. §§35-393 et seq., all offerors must select one of the following:

- The Company submitting this Offer **does not** participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. §§35-393 et seq. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.
- The Company submitting this Offer **does** participate in a boycott of Israel as described in A.R.S. §§35-393 et seq.
- Exempt Solicitation, Contract, or Contractor.**

Indicate which of the following statements applies to this Contract:

- Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; and/or
- Contractor is a non-profit organization.

Company Name

Signature of Person Authorized to Sign

Address

Printed Name

City State Zip

Title



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Attachment 3-D: Forced Labor of Ethnic Uyghurs Ban

Please note that if any of the following apply to the Contractor, then the Offeror shall select the “Exempt Contractor” option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. § 35-394, written certification is required to show that the company entering into a contract with a public entity does not use the forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Under A.R.S. § 35-394:

1. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
2. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

In compliance with A.R.S. §§ 35-394 et seq., all offerors must select one of the following:

- The Company submitting this Offer **does not** use, and agrees not to use during the term of the contract, any of the following:
 - Forced labor of ethnic Uyghurs in the People’s Republic of China;
 - Any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; or
 - 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.

- The Company submitting this Offer **does** participate in use of Forced Uyghurs Labor as described in A.R.S. § 35-394.

Exempt Contractor

Indicate which of the following statements applies to the Contractor (may be more than one):

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; and/or
- Contractor is a non-profit organization.

Company Name

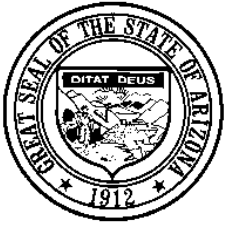
Signature of person authorized to sign

Address

Printed name and title

City, State, ZIP

Contact email address Contact phone number

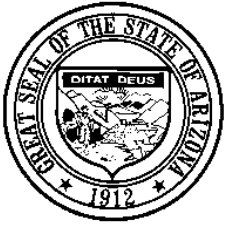


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Attachment 4: Pricing (Do Not Submit)

**DO NOT SUBMIT OR INCLUDE ANY PRICING INFORMATION WITH
STATEMENT OF QUALIFICATIONS**



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Attachment 5-A: Confidential Information Designation

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recognizing there may be materials included in a solicitation response that are proprietary or a trade secret, a process is set out in A.A.C. R2-7-103 (copy attached) that will allow qualifying materials to be designated as confidential and excluded from disclosure. For purposes of this process the definition of “trade secret” will be the same as that set out in A.A.C. R2-7-101(52).

Complete this form and return it with your Offer **along with the appropriate supporting information** to assist the State in making its determination as to whether any of the materials submitted as part of your Offer should be designated confidential because the material is proprietary or a trade secret and therefore not subject to disclosure.

STATE WILL NOT CONSIDER ANY MATERIAL IN YOUR OFFER “CONFIDENTIAL” UNLESS DESIGNATED ON THIS FORM.

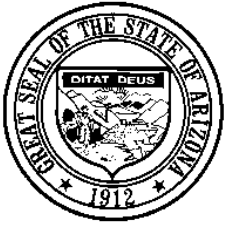
Check one of the following – if neither is checked, State will assume that as equivalent to “DOES NOT”:

| | |
|--------------------------|---|
| <input type="checkbox"/> | This response DOES NOT contain proprietary or trade secret information. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317. |
| <input type="checkbox"/> | This response DOES contain trade secret information because it contains information that: <ol style="list-style-type: none"> 1. Is a formula, pattern, compilation, program, device, method, technique or process, AND 2. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; AND 3. Is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy. |

NOTE: Failure to attach an explanation may result in a determination that the information does not meet the statutory trade secret definition. All information that does not meet the definition of trade secret as defined by A.A.C. R2-7-101(52) will become public in accordance with A.A.C. R2-7-C317. State may make its own determination on materials in accordance with A.A.C. R2-7-103. If State agrees with Offeror’s designation of trade secret or confidentiality and the determination is challenged, the undersigned hereby agrees to cooperate and support the defense of the determination with all interested parties, including legal counsel or other necessary assistance.

By submitting this response, Offeror agrees that the entire Offer, including confidential, trade secret and proprietary information may be shared with an evaluation committee and technical advisors during the evaluation process. Offeror agrees to indemnify and hold State, its agents and employees, harmless from any claims or causes of action relating to State’s withholding of information based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by State in defending such an action.

| | |
|----------------------|--------------------------------|
| Offeror Company Name | Signature of Authorized Person |
| Address | Printed Name |
| City State Zip | Title |



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Copy of A.A.C. R2-7-103 [Confidential Information]
as was current at time of Solicitation issuance

PROVIDED FOR REFERENCE ONLY

- A. *If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.*
- B. *Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.*
- C. *Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:*
1. *The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;*
 2. *The designated information is not confidential; or*
 3. *Additional information is required before a final confidentiality determination can be made.*
- D. *If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.*
- E. *An agency chief procurement officer may release information designated as confidential under subsection (A) if:*
1. *A request for review is not received by the state procurement administrator within the time period specified in the notice; or*
 2. *The state procurement administrator, after review, makes a written determination that the designated information is not confidential.*

- - -



Request for Qualifications Attachments & Response Forms

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Attachment 5-B: Conformance Statements

If taking exceptions, the Attachment Supplements must be uploaded as a separate word doc. file titled “Attachment Supplement -”

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.

READ PARAGRAPH 6.8 OF THE INSTRUCTIONS TO OFFERORS BEFORE TAKING ANY EXCEPTIONS – TAKING EXCEPTIONS CAN BE GROUNDS FOR STATE REJECTING OR DOWN-GRADING YOUR OFFER IN EVALUATION.

CONFORMANCE TO THE INSTRUCTIONS TO OFFERORS

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Special Instructions to Offerors and Uniform Instructions to Offerors of the Solicitation Documents and attests that its Offer complies.
- NO – Offeror acknowledges that it has read and understands the Instructions to Offerors in the Solicitation Documents, and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment Supplement 1**.

CONFORMANCE TO SCOPE OF WORK AND PRICING

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Scope of Work Document and the Pricing Document of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understands the Scope of Work Document and the Pricing Document of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment Supplement 2**.

CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understand the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment Supplement 3**.



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Attachment 5-B1: Conformance Statements Supplement 1

Exceptions to Instructions

| Article / Paragraph or Exhibit Reference | Proposed Changes / Alternate Language | RFP Language (Copy and Paste from Solicitation) |
|--|--|---|
| Special Instructions to Offerors | | |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| Uniform Instructions to Offerors | | |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |

Company Name

Signature of Person Authorized to Sign



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Attachment 5-B2: Conformance Statements Supplement 2 Exceptions to Scope of Work

| Article / Paragraph or Exhibit Reference | Proposed Changes / Alternate Language | RFP Language (Copy and Paste from Solicitation) |
|--|--|---|
| Scope of Work | | |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| Pricing Document | | |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |
| x | <p>X Exception:</p> <p>X Rationale:</p> | x |

Company Name

Signature of Person Authorized to Sign



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Attachment 5-B3: Conformance Statements Supplement 3 Exceptions to Contract Terms & Conditions

| Article/ Paragraph or Exhibit Reference | Proposed Changes / Alternate Language | RFP Language (Copy and Paste from Solicitation) |
|--|---|---|
| Special Terms & Conditions | | |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |
| Uniform Terms & Conditions | | |
| x | <p><u>X Exception:</u></p> <p><u>Rationale:</u></p> | x |
| x | <p><u>X Exception:</u></p> <p><u>X Rationale:</u></p> | x |

Company Name

Signature of Person Authorized to Sign

| | | | |
|---|--|-----------------|--|
|  | Contract Amendment I | | Arizona Department of Administration General Services Division 1400 W Washington St, Ste B200 Phoenix, AZ 85007 |
| | Contract ID: CTR066941 | | |
| | Contractor: SWCA ENVIRONMENTAL CONSULTANTS | | |
| | Contract Amendment #1 | Date: 10/2/2023 | |

ON-CALL ENVIRONMENTAL SERVICES

The above-mentioned contract is hereby amended as follows: In accordance with the Special Terms and Conditions, Section 5.0, Contract Changes.

SPECIAL TERMS AND CONDITIONS:

4.0 Costs and Payments

4.1 DELAY CAUSED IN WHOLE OR IN PART BY DESIGN PROFESSIONAL

If delay in the completion of the Project is caused in whole or in part by the actions or inaction of the Design Professional, the Design Professional shall indemnify the Agency against all reasonable Costs, expenses, liabilities, or damages resulting from such delay. In addition, the Design Professional at its own expense shall provide all Services (whether provided by the Design Professional itself or a Design Professional Subconsultant necessary to bring the Project back into compliance with the Schedule.

9.0 Contract Termination

9.1 TERMINATION FOR DEFAULT-DESIGN PROFESSIONAL

- 1) In addition to all other rights reserved to it under the Contract, Agency may terminate the Contract due to Design Professional's failure to:
 - a) Comply with any term or condition of the Contract;
 - b) Comply with any warranty made by Design Professional under the Contract;
 - c) Obtain and maintain all required insurance policies, bonds, licenses and/or permits;
 - d) Make satisfactory progress in carrying out the Work; or
 - e) Furnish Agency with assurances satisfactory to Agency evidencing Design Professional's ability to complete the Work in compliance with all the requirements of the Contract.

- 2) Procurement Officer shall give written notice of the termination and the reasons for it. Upon receipt of written notice by Agency, Design Professional shall immediately discontinue all Services and will immediately terminate placing orders or entering into Subcontracts for Services, supplies, assistance, facilities or Materials in connection with this Contract. In addition, Design Professional shall proceed to cancel promptly all existing Subconsultants insofar as they are related to this Contract.

- 3) Upon termination under this paragraph, all documents, data and reports prepared by Design Professional under the Contract and all attributable Work in progress, Work completed, and Work accepted will become Agency's property, and Design Professional shall deliver all of it to Agency immediately upon a demand made by Agency.

- 4) Upon termination under this paragraph and as soon as practicable after receipt of notice of termination, the Design Professional shall submit a statement, showing in detail the Services performed but not paid for under this Contract to the date of termination. Agency shall then pay Design Professional promptly the accrued and unpaid Services to the date of termination, to the extent the Services are approved by Agency.

- 5) Agency may, following termination of the Contract under this paragraph, procure on terms and in the manner determined to be appropriate Services to replace those that were to have been provided or performed by Design Professional and/or Design Professional's Subcontractors, and Design Professional will be liable to Agency for any excess Cost Agency incurs in procuring such substitutes. Agency shall ascertain Cost to complete the balance of the Work under this Contract. If the Cost to complete the balance of the Work is greater than the unpaid Contract amount, Agency shall retain all unpaid balances and, in addition, Design Professional shall pay directly to Agency the difference in the unpaid balance and the Cost to complete the Work.
- 6) In the event the Agency terminates the Contract for default, the Agency shall be entitled to recover from the Design Professional any and all reasonable attorney fees and court costs (including, but not limited to, primary loss investigation, judgment costs, expert witness and/or consultant fees and any and all expenses, fees, and costs from appellate proceedings).
- 7) If a termination of this Contract by Agency for default later is determined to have been improper, such termination shall be automatically converted to a termination for convenience, and Design Professional's remedies and compensation shall be limited to those for a termination for convenience under the Contract.
- 8) Except as expressly provided in this paragraph, in no case shall Agency pay Design Professional any additional monies other than those previously paid under the Contract.

11.0 DESIGN PROFESSIONAL RESPONSIBILITIES

11.1 MANAGEMENT OF SCHEDULE.

The Design Professional is responsible for timely completion of all its activities, responsibilities, and obligations under this Contract in accordance with the approved Schedule as amended and approved by the Agency. The Agency shall seek the Design Professional's input if any change in the Agency's requirements affects the Schedule. The Design Professional acknowledges and agrees, absent fault of the Agency or force majeure, that if the agreed-upon design milestones in the Schedule are not met, the Design Professional will, at its own expense, accelerate the Work, including accelerating the Work to be performed by (or replace) delinquent Design Professional Subcontractors and retain such additional resources as necessary to return the Project to compliance with the Schedule.

ATTACHED: Full Special Terms and Conditions revised by Amendment I.

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT AND AUTHORIZATION

This change order shall be fully executed upon the approval electronically in APP by an authorized representative of the Contractor and applied to the contract in APP by the Procurement Officer or delegate.

SPECIAL TERMS AND CONDITIONS AMENDED

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

- 1.1 Co-Op Buyer** “Co-Op Buyer” means a member of the State Purchasing Cooperative that has entered into a “Cooperative Purchasing Agreement” with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, “Co-Op Buyer” is to be construed as encompassing “eligible procurement unit” under A.A.C. R2-7-101(23).
- NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, “non-profit organizations” are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.
- 1.2 Eligible Agency** “Eligible Agency” in the use of this contract shall mean any State of Arizona agency, university, commission, or board. The State reserves the right to expand the definition of “Eligible Agency” to include Co-Op Buyer as defined in the Special Terms and Conditions paragraph 1.2 at time of a Contract Extension.

2.0 Contract Interpretation

No modifications to uniform terms and conditions section

3.0 Contract Administration and Operation

- 3.1 Term of Contract** The term of the Contract will commence on the date indicated on the Acceptance and continue for a term not to exceed five (5) years unless canceled, terminated, or permissibly extended.

4.0 Costs and Payments

- 4.1 Delay Caused in Whole or In Part by Design Professional** If delay in the completion of the Project is caused in whole or in part by the actions or inaction of the Design Professional, the Design Professional shall indemnify the Agency against all reasonable Costs, expenses, liabilities, or damages resulting from such delay. In addition, the Design Professional at its own expense shall provide all Services (whether provided by the Design Professional itself or a Design Professional Subconsultant necessary to bring the Project back into compliance with the Schedule.

5.0 Contract Changes

No modifications to uniform terms and conditions section

6.0 Risk and Liability

6.1 Indemnification Clause

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers’ Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule,

regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

6.2 Insurance Requirements

6.2.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

6.2.2 The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

6.3 Minimum Scope and Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

6.3.1 Commercial General Liability (CGL) – Occurrence Form

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

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

6.3.2 Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

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

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

6.3.3 Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability
 - Each Accident \$1,000,000

- Disease – Each Employee \$1,000,000
- Disease – Policy Limit \$1,000,000
- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

6.3.4 Professional Liability (Errors and Omissions Liability)

- Each Claim \$2,000,000
- Annual Aggregate \$2,000,000
- a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

6.4 Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

- 6.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
- 6.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

6.5 Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

6.6 Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

6.7 Verification of Coverage

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

- 6.7.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
- 6.7.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 6.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The

State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6.8 Subcontractors

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

6.9 Approval and Modifications

The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

6.10 Exceptions

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

7.0 Warranties

No modifications to uniform terms and conditions section.

8.0 State's Contractual Remedies

No modifications to uniform terms and conditions section

9.0 Contract Termination

9.1 Termination for Default – Design Professional

- 1) In addition to all other rights reserved to it under the Contract, Agency may terminate the Contract due to Design Professional's failure to:
 - a) Comply with any term or condition of the Contract;
 - b) Comply with any warranty made by Design Professional under the Contract;
 - c) Obtain and maintain all required insurance policies, bonds, licenses and/or permits;
 - d) Make satisfactory progress in carrying out the Work; or
 - e) Furnish Agency with assurances satisfactory to Agency evidencing Design Professional's ability to complete the Work in compliance with all the requirements of the Contract.
- 2) Procurement Officer shall give written notice of the termination and the reasons for it. Upon receipt of written notice by Agency, Design Professional shall immediately discontinue all Services and will immediately terminate placing orders or entering into Subcontracts for Services, supplies, assistance, facilities or Materials in connection with this Contract. In addition, Design Professional shall proceed to cancel promptly all existing Subconsultants insofar as they are related to this Contract.
- 3) Upon termination under this paragraph, all documents, data and reports prepared by Design Professional under the Contract and all attributable Work in progress, Work completed, and Work accepted will become Agency's property, and Design Professional shall deliver all of it to Agency immediately upon a demand made by Agency.
- 4) Upon termination under this paragraph and as soon as practicable after receipt of notice of termination, the Design Professional shall submit a statement, showing in detail the Services performed but not paid for under this Contract to the date of termination. Agency shall then pay Design Professional promptly the accrued and unpaid Services to the date of termination, to the extent the Services are approved by Agency.
- 5) Agency may, following termination of the Contract under this paragraph, procure on terms and in the manner determined to be appropriate Services to replace those that were to have been provided or performed by Design Professional and/or Design Professional's Subcontractors, and Design Professional will be liable to Agency for any excess Cost Agency incurs in procuring such substitutes. Agency shall ascertain Cost to complete the balance of

the Work under this Contract. If the Cost to complete the balance of the Work is greater than the unpaid Contract amount, Agency shall retain all unpaid balances and, in addition, Design Professional shall pay directly to Agency the difference in the unpaid balance and the Cost to complete the Work.

- 6) In the event the Agency terminates the Contract for default, the Agency shall be entitled to recover from the Design Professional any and all reasonable attorney fees and court costs (including, but not limited to, primary loss investigation, judgment costs, expert witness and/or consultant fees and any and all expenses, fees, and costs from appellate proceedings).
- 7) If a termination of this Contract by Agency for default later is determined to have been improper, such termination shall be automatically converted to a termination for convenience, and Design Professional's remedies and compensation shall be limited to those for a termination for convenience under the Contract.
- 8) Except as expressly provided in this paragraph, in no case shall Agency pay Design Professional any additional monies other than those previously paid under the Contract.

10.0 Contract Claims

No modifications to uniform terms and conditions section.

11.0 Design Professional Responsibilities

11.1 Management of Schedule The Design Professional is responsible for timely completion of all its activities, responsibilities, and obligations under this Contract in accordance with the approved Schedule as amended and approved by the Agency. The Agency shall seek the Design Professional's input if any change in the Agency's requirements affects the Schedule. The Design Professional acknowledges and agrees, absent fault of the Agency or force majeure, that if the agreed-upon design milestones in the Schedule are not met, the Design Professional will, at its own expense, accelerate the Work, including accelerating the Work to be performed by (or replace) delinquent Design Professional Subcontractors and retain such additional resources as necessary to return the Project to compliance with the Schedule.

12.0 Agency Responsibilities

No modifications to uniform terms and conditions section.

13.0 Data and Information Handling

No modifications to uniform terms and conditions section.

14.0 Information Technology Work

No modifications to uniform terms and conditions section.

End of Section



GRANT PROVISIONS

Grant Project Title: Greater Flagstaff Region CWPP Update

Funding Agency: Arizona Department of Forestry and Fire Management

Grant Agreement No.: 24-CWDG-804 FS-1500-0045

ATTACHMENT C

General Provisions

COVENANT AGAINST CONTINGENT FEES

The Sub-grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Sub-grantee, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the State shall have the right to annul this agreement without liability, or, in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

MODIFICATIONS

Modifications within the scope of this award shall only be made by mutual consent of both parties, by issuance of a written amendment signed and dated by all properly authorized signatory officials prior to any changes being performed. Requests for modification shall be made, in writing, at least thirty (30) days prior to the implementation of the requested change. Any change to the original grant application scope of work or approved detailed project plan must have prior written State approval. Incurring costs without prior written approval may result in loss of funds reimbursed.

EXTENSIONS

Timely completion of this project is required. If this agreement is extended by mutual written consent of the parties, all terms, conditions and provisions of the original agreement shall remain in full force and effect and apply during any extension period. Any extension of time granted shall not constitute or operate as a waiver by the State of any of its rights herein. Extensions will only be considered and/or made if the Sub-grantee has demonstrated reasonable efforts to complete the grant project as defined in the original detailed project plan and has a clear and specific plan for completion of the project within the extended time period.

RESPONSIBILITY FOR CLAIMS AND LIABILITIES

The Sub-grantee agrees to assume all risk of loss to indemnify and hold the State, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suites, losses, damages causes or action, fines or judgments, including costs, attorney's and witnesses' fees and expenses incident thereto, for injuries or death to persons and for loss of, damage to, theft of or destruction of any property including loss of use thereof arising out of or in connection with the performance of duties required by agreement, all whether or not authorized or agreed to by Sub-grantee.

RETENTION OF RECORDS

The Sub-grantee and any subcontractor shall maintain and store all documents, papers, accounting records; other evidence pertaining to costs incurred for this work, and shall make all such materials available at any reasonable time during the term of work and for five (5) years from the date of final payment to the Sub-grantee. The Sub-grantee may be required to provide such records as necessary to any auditing agent. Inability to provide such records may result in unallowable costs to the grant and any funds disbursed to the Sub-grantee may have to be paid back to the State and/or Federal government.

COMPLIANCE WITH ARIZONA EXECUTIVE ORDERS 75-5 and 2009-09

The Sub-grantee shall comply with Arizona Executive Order 75-5 and as amended by Arizona Executive Order 2009-09 relating to non-discrimination in employment by government contractors and subcontractors. These regulations are herein incorporated by reference and made a part of this agreement.

ADMINISTRATIVE AND ACCOUNTING REQUIREMENTS

It is the Sub-grantee's responsibility to develop, document, administer and manage the grant in accordance with all applicable Federal and State laws. Sub-grantee is subject to the OMB requirements and guidance in subparts A through F of 2 CFR 200 as adopted and supplemented by USDA in 2 CFR part 400.

CFR (Code of Federal Regulations) – <http://www.ecfr.gov>. If grantee needs assistance in obtaining any of these documents in electronic or printed form, please contact your Arizona State Forestry representative.

If any program income is generated as a result of this grant/agreement, the income earned during the term of this agreement shall be applied using the deductive method as described in 2 CFR 200.307 ; the deductive alternative is the preferred method, unless specifically authorized by the Signatory Official. Costs incident to the generation of program income may be deducted from gross income to determine program income provided these costs have not been charged to the award/agreement and they comply with the applicable Cost Principles.

FREEDOM OF INFORMATION ACT

Public access to grant or agreement records shall not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to "Freedom of Information" regulations (5 U.S.C. 552).

MEMBERS OF U.S. CONGRESS

Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this award, or benefit that may arise there from, either directly or indirectly.

TERMINATION FOR CONVENIENCE

The Office of the State Forester, by written notice, may terminate this contract, in whole or in part, when it is deemed in the best interest of the State. If this agreement is so terminated, Sub-grantee will be compensated for work performed up to the time of the termination notification. In no event shall payment for such costs exceed the current grant amount.

TERMINATION BY MUTUAL AGREEMENT

This award may be terminated, in whole or part, as follows:

- When the State and Sub-grantee agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- By thirty (30) days written notification by the Sub-grantee to the State setting forth the reasons of termination, effective date, and in the case of partial termination, the portion to be terminated.
- If, in the case of a partial termination, the State determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the State may terminate the award in its entirety.

Upon termination of an award, the Sub-grantee shall not incur any new obligations for the terminated portion of the award after the effective date, and shall cancel as many outstanding obligations as possible. The State shall allow full credit to the Sub-grantee for the United States Federal share of the noncancelable obligations properly incurred by the Sub-grantee up to the effective date of termination. Excess funds shall be refunded within sixty (60) days after the effective date of termination.

CANCELLATION FOR CONFLICT OF INTEREST

Pursuant to A.R.S. §38-511, the state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

FEDERAL IMMIGRATION AND NATIONALITY ACT

By entering into the Agreement, the Sub-grantee warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Sub-grantee shall obtain statements from its contractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Grant. I-9 forms are available for download at USCIS.GOV.

The State may request verification of compliance for any Sub-grantee, contractor or subcontractor performing work under the Grant. Should the State suspect or find that the Sub-grantee or any of its contractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Sub-grantee or Contractor. All costs necessary to verify compliance are the responsibility of the Sub-grantee. The parties agree to comply with A.R.S. §41-4401, the provisions of which are hereby incorporated.

ARBITRATION

To the extent required by A.R.S. §12-1518, the parties agree to use arbitration, after exhausting applicable administrative review, to resolve disputes arising out of this agreement.

ANTITRUST VIOLATIONS

The Sub-grantee and the State recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by the purchaser or ultimate user. Therefore, Sub-grantee acting as a vendor, hereby assigns to State any and all claims for such overcharges.

SUSPENSION OR DEBARMENT

Submittal of an offer or execution of a contract shall attest that the sub-grantee or contractor is not currently suspended or debarred. If the Sub-grantee or any of its contractors become suspended or debarred, the Sub-grantee shall immediately notify the State. The State may, by written notice to the Subgrantee, immediately terminate this Agreement if the State determines that the Sub-grantee or their contractors have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

CONTRACTS AND SUBAWARDS TO DEBARRED AND SUSPENDED PARTIES

Pursuant to Code of Federal Regulations 2 CFR part 180, grantees and sub grantees must not make an award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". By entering into this agreement sub-grantee agrees to comply with all relevant codes including 2 CFR part 180, subpart C, "Responsibilities of Participants Regarding

Transactions”. When entering into a covered transaction with another person at the next lower tier, sub-grantee must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking the SAM Exclusions: System for Award Management (SAM) – www.sam.gov
- (b) Collecting a certification from that person
- (c) Adding a clause or condition to the covered transaction with that person.

TITLE VI of CIVIL RIGHTS ACT of 1964

Sub-grantee agrees to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. 200d). In accordance with Title VI of that Act, no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and Sub-grantee will immediately take any measures necessary to effectuate this agreement.

UNIQUE ENTITY IDENTIFIER (UEI) AND SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM)

Sub-grantee shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or award term(s). For purposes of this award, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov .

PUBLICATION REQUIREMENTS

A. ACKNOWLEDGEMENT IN PUBLICATIONS. Sub-grantee shall acknowledge Arizona Department of Forestry and Fire Management and U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award, per 2 CFR 415.2.

B. NONDISCRIMINATION STATEMENT IN PUBLICATIONS. Sub-grantee shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited basis apply to all programs.)

To file a complaint of discrimination, write USDA, director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 7205964 (voice and TDD). USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text: *"This institution is an equal opportunity provider."*

C. COPYRIGHTS. No original text or graphics produced and submitted by the U.S. Forest Service shall be copyrighted. The U.S. Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes. This right shall be transferred to any sub agreements or subcontracts. This

provision includes the copyright in any work developed by Sub-grantee under this agreement. And any right of copyright to which Sub-grantee purchases ownership with any federal contributions.

REPORTING OF SUBRECIPIENT EXECUTIVES

Unless exempt from this requirement of 2 CFR 170, Sub-grantee agrees to report the names and total compensation of each of the sub-grantee's five most highly compensated executives for the sub-grantee's preceding completed fiscal year if:

1. in the sub-grantee's preceding fiscal year, the sub-grantee received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

TRAFFICKING IN PERSONS.

Section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), include provisions applicable to federal support recipients. By entering into this agreement, you agree to terms set forth in the primary award from the US Forest Service as documented below. This Agreement may be unilaterally terminated, without penalty, if a subrecipient is determined to have violated an applicable prohibition in this award term. (See 22 U.S.C. 7104 and 2 CFR175 for more details)

A. Provisions applicable to a Recipient that is a private entity.

1. You as the Recipient, your employees, subrecipients under this award, and subrecipients' employees may not-
 - (i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (ii) Procure a commercial sex act during the period of time that the award is in effect; or
 - (iii) Use forced labor in the performance of the award or subawards under the award.
2. This award may be unilaterally terminated, without penalty, if you or a subrecipient that is a private entity -
 - (i) Is determined to have violated a prohibition in paragraph A.1 of this award term; or
 - (ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A.1 of this award term through conduct that is either-
 - a. Associated with performance under this award; or
 - b. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)".

B. Provision applicable to a recipient other than a private entity. This award may be unilaterally terminated, without penalty, if a subrecipient:

1. Is determined to have violated an applicable prohibition in paragraph A.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph A.1 of this award term through conduct that is either-
 - (i) Associated with performance under this award; or
 - (ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)."

C. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph A.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph A.2 or B of this section:
 - (1) Implements section I06(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph A1 of this award term in any subaward you make to a private entity.

D. Definitions. For purposes of this award term:

1. "Employee" means either:
 - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
 - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

- (2) Includes:
- i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - ii. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

DRUG-FREE WORKPLACE

Compliance with the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D, as amended) requires that all organizations receiving grants from any federal agency agree to maintain a drug-free workplace.

INVALIDITY OF PART OF THIS AGREEMENT

The parties agree that should any part of this AGREEMENT be held to be invalid or void, the remainder of the AGREEMENT shall remain in full force and effect and shall be binding upon the parties.

COUNTERPARTS

This AGREEMENT may be executed in any number of duplicate originals, photocopies or facsimiles, all of which (once each party has executed at least one such duplicate original, photocopy, or facsimile) will constitute one and the same document.

INTERPRETATION

This AGREEMENT is not to be construed or interpreted for or against either of the parties on the grounds of sole or primary authorship or draftsmanship.

PARAGRAPH HEADINGS

The paragraph headings in this AGREEMENT are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this AGREEMENT or any of its provisions.

GOVERNING LAW

This AGREEMENT is made under, and is to be construed in accordance with, the laws of the State of Arizona.

ENTIRE AGREEMENT

This AGREEMENT contains the entire agreement and understanding of the parties hereto. There are no representations or provisions other than those contained herein, and this AGREEMENT supersedes all prior agreements between the parties, whether written or oral, pertaining to the same subject matter of this AGREEMENT.

FEDERAL - GRANT PROVISIONS

The Contractor and its Subcontractor shall comply with the following grant provisions;

Applicable Laws

Compliance with all applicable Federal, State, and Local laws and regulations.

Awards to debarred and suspended parties

The City will not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Orders 12549 and 12689, ``Debarment and Suspension."

Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Equal Employment Opportunity

Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

Clean Water and Air Act

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Resource Conservation and Recovery Act

Compliance with the Resource Conservation and Recovery Act (RCRA) requires federal agencies to assess the impact that debris, debris removal, hazardous wastes, and hazardous waste clean-up projects will have on air and water quality and take actions to prevent degradation. RCRA gives EPA the authority to control hazardous waste from the "cradle-to-grave" to facilities that generate hazardous materials and sets forth a framework for the management of non-hazardous waste (42 USC, 6901).

Conflicts of Interest

The City (grantee) and Contractor (subgrantees) will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Copyrights

Reports, maps or other documents produced in whole or in part are works for hire and shall not be the subject of any application for copyright by or on behalf of the Contractor or its Subcontractor. The Contractor shall advise the City or its designee at the time of delivery of any copyrighted or copyrightable work furnished under this Agreement, or any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

Patent Fees and Royalties

Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in Funding Agency Contracting Provisions for Construction Projects the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by the Owner in the Contract Documents.

Responsible Contractors

The City will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Access and Retention of Records

Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

This content is from the eCFR and is authoritative but unofficial.

Title 2 – Federal Financial Assistance

Subtitle A – Office of Management and Budget Guidance for Federal Financial Assistance

Chapter II – Office of Management and Budget Guidance

Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Authority: 31 U.S.C. 503; 31 U.S.C. 6101-6106; 31 U.S.C. 6307; 31 U.S.C. 7501-7507.

Source: 89 FR 30136, Apr. 22, 2024, unless otherwise noted.

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be

NOT
APPLICABLE

prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- (J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]