

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
and
VALLEY RAIN CONSTRUCTION CORPORATION
for
Landscape Construction for Parks and Recreation Facilities**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this ____ day of _____ 2023, between the City of Glendale, an Arizona municipal corporation (the "City"), and Valley Rain Construction Corporation, an Arizona Corporation authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

- A. On April 1, 2019 under the Strategic Alliance for Volume Expenditures (SAVE) cooperative, the City of Peoria entered into a contract with Contractor to purchase the goods and services described in the Parks, Trails and Landscape Construction Contract No. ACON14119 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was April 1, 2019, until the date the contract expires on March 31, 2024. There are no renewals available beyond this date. The period of this Agreement, therefore, is the period from the Effective Date of this Agreement until March 31, 2024.

2. Scope of Work; Terms, Conditions, and Specifications.
 - A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
 - B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.
3. Compensation.
 - A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
 - B. The total purchase price for the supplies and/or services purchased under this Agreement are estimated to be Two Million, Eight Hundred and Eighty-Eight Thousand, Four Hundred Twenty-One Dollars (\$2,888,421) for the entire term of the Agreement.
4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.
5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.
6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.
7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.
8. No Boycott of Israel. To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.
9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
c/o Heidi Barriga, Interim Deputy Director
Public Facilities, Recreation and Special Events Department
5959 W. Brown St
Glendale, AZ 85302
Email: hbarriga@glendaleaz.com

and

Valley Rain Construction Corporation
c/o Cathy Dalzell, President
1614 E. Curry Rd
Tempe, AZ 85281
Email: cathy@valleyrain.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

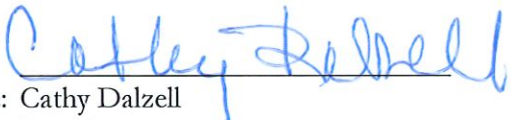
“City”

“Contractor”

City of Glendale, an Arizona
municipal corporation

Valley Rain Construction Corporation
an Arizona corporation

By: _____
Kevin Phelps
City Manager

By: 
Name: Cathy Dalzell
Title: President

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
VALLEY RAIN CONSTRUCTION CORPORATION**

EXHIBIT A

City of Peoria, Job Order Contract Number: ACON14119
for Parks, Trails and Landscape Construction

Contract Extension

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
VALLEY RAIN CONSTRUCTION CORPORATION**

EXHIBIT B
Scope of Work

In accordance with the terms and conditions of this Agreement and the City of Peoria Contract No. ACON14119, the City is retaining Valley Rain Construction Corporation for landscape construction services for the following park sites:

- Desert Mirage Park
- Discovery Park
- Hillcrest Park
- New World Park
- Sunset Palms Park

**LINKING AGREEMENT
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AND
VALLEY RAIN CONSTRUCTION CORPORATION**

EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

Method: City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit A.

Payment: Contractor shall be paid upon completion of the work performed based on the scope of work included herein and following the City's receipt of a properly completed invoice. All work and services performed must be completed to the satisfaction of the City of Glendale.

Invoicing: Contractor to submit invoice(s) monthly to City for payment. Invoice(s) to be paid in a timely manner in accordance with City of Glendale Finance Department procedures. Services to be based on the scope of work included herein and the quote provided by Contractor. Any issues regarding billing or invoicing must be directed to the City of Glendale representative requesting the service or material from the Contractor. A properly completed invoice should contain, at a minimum, the following:

- a. Parks or Recreation Project Name
- b. Parks or Recreation Project Number
- c. Contractor name, address, and contact information;
- d. City billing information;
- e. City contract number as listed on the first page of the Agreement;
- f. Invoice number and date;
- g. Payment terms;
- h. Date of service or delivery;
- i. Description of materials or services provided;
- j. If materials provided, the quantity delivered and pricing of each unit;
- k. Service address(es), contract number, and purchase order associated with the contract;
- l. Applicable taxes;
- m. Total amount due

NOT TO EXCEED AMOUNT

The total amount of compensation paid to the Contractor for full completion of all work required by the Project must not exceed \$2,888,421 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

City shall pay Contractor compensation in accordance with the rates as set forth in the City of Peoria Contract No. ACON14119 - Parks, Trails and Landscape Construction Job Order Contract for Landscape Construction for City Parks and Recreation Facilities.



CONTRACT AUTHORIZATION AND SIGNATURE – COVER SHEET
(For City Use Only)

CONTRACT DETAILS

New Contract
 Amendment
 Extension
 Other: _____

Purchasing Job Number: P19-0018A
Buyer Name: Drew Ashmun

Vendor / Contractor: Valley Rain Construction Corporation

Contract Description: Parks, Trails and Landscape Construction

Scope/Change Description: Final extension

Start Date: 04/01/2019
End Date: 03/31/2024
Term Contract? No
 Yes
Final Expiration: 03/31/2024

FINANCIAL DETAILS

City Department: Engineering
Department Rep: Ed Striffler

Budget Account #: _____
CIP#: _____

A. This document amount: \$ 0.00

B. Total of all previous executed amounts for this contract: \$ 0.00

C. Total Contract Amount: \$ 0.00

APPROVALS

Council Approval Required?: No
 Yes:
Council Date: _____

City Manager Signature Required? No
 Yes

Risk Management Approval Required? No
 Yes:
Risk Mgmt Signature: _____

SPECIAL INSTRUCTIONS

CONTRACT NUMBER

ACON14119E

MATERIALS MANAGER APPROVAL

Christine Finney

Projects shall be quoted in writing and shall be reviewed by an authorized City of Glendale representative who shall verify that it meets the contractual pricing before any work begins.

Once the project has been completed, Contractor shall provide a detailed invoice to the City of Glendale. All invoices must match the quote provided and be confirmed by the City of Glendale authorized representative prior to paying.

No terms set forth in any invoice, purchase order, or similar document issued by Contractor will be deemed accepted by the City; the terms of the contractual relationship between the Parties are as set forth in this Agreement.



CONTRACT AMENDMENT

Solicitation No: P19-0018A Page 1 of 1
 Description: Parks, Trails and Landscape Construction
 Amendment No: Five (5) Date: 03/15/2023

Materials Management Procurement
 9875 N. 85th Ave., 2nd Fl.
 Peoria, AZ 85345
 Telephone: (623) 773-7115
 Fax: (623) 773-7118

Buyer: Drew Ashmun

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on 03.31.2023 and is hereby extended. **AND THIS IS THE FINAL EXTENSION.**

The New Contract Term is: **04.01.2023 to 03.31.2024**

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

<u>Cathy Dalzell</u>	<u>3/21/23 15:52 MST</u>	<u>Cathy Dalzell, President</u>	<u>Valley Rain Construction Corporation</u>
Signature	Date	Typed Name and Title	Company Name
<u>1614 E. Curry Rd.</u>	<u>Tempe</u>	<u>AZ</u>	<u>85281</u>
Address	City	State	Zip

Attested by:

Jill A. Boltz for
 Lori Dyckman, City Clerk

Adina Lund
 Director: Adina Lund, Development and Engineering Director

Edward Striffler
 Department Rep: Ed Striffler, Architectural Services Manager

Approved as to Form:

Michael Dynes for
 Emily Jurmu, Acting City Attorney

The above referenced Contract Amendment is hereby Executed:

3/21/23 at Peoria, Arizona

Christine Finney
 Christine Finney, Materials Manager



City Seal
 Copyright 2003
 City of Peoria, Arizona

CC Number

ACON14119E
 Contract Number



City of Peoria, Arizona Job Order Contract



Statement of Qualifications No: P19-0018A

Description of Work: Parks Trails and Landscape Construction

Location: City of Peoria, Materials Management
 Mailing Address: 9875 N. 85th Ave., 2nd Fl., Peoria, AZ 85345
 Contact: Drew Ashmun
 Phone: (623) 773-7115

OFFER

A-084774

Contractor's License Number

Valley Rain Construction Corporation
 Job Order Contractor Name

Authorized Signature for Offer

1614 E Curry Rd
 Address

Daniel K. Kowitzky
 Printed Name

Tempe AZ 85281
 City State Zip Code

V.P. Construction
 Title

480-894-2835 480-966-1450
 Telephone Fax

dan@valleyrain.com
 E-mail

ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Peoria Use Only)

Your offer is hereby accepted. The Contractor is now bound to sell the construction services listed by the attached award notice based upon the solicitation, including all terms conditions, specifications, amendments, etc., of the contract and the Contractor's offer as accepted by the City. The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives an executed Notice to Proceed and Purchase Order.

Attested by:

 Rhonda Geriminsky, City Clerk

City of Peoria, Arizona.
 Eff. Date: April 1, 2019

Approved as to form:

 Vanessa P. Hickman, City Attorney



City Seal
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ACON14119
 Contract Number

Awarded on 4-2-19

Official File

for Dan Zenko, Materials Manager

JOB ORDER CONTRACT



P19-0018

Parks Trails and Landscape Construction

CONTRACT FOR CONSTRUCTION

**JOB ORDER CONTRACT AGREEMENT
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ATTACHMENTS

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JOB ORDER CONTRACTING CONTRACT

THIS CONTRACT is entered into and made effective the First (1st) day of April, 2019 by and between the City of Peoria, Arizona, an Arizona charter municipality (the "Owner"), and Valley Rain Construction, (the "Job Order Contractor"). The parties agree as follows:

1. DEFINITIONS.

1.1. Owner. Owner means Owner's senior manager, Contracting Officer or a duly authorized representative which means any person specifically authorized to act for Owner by executing the Contract and any modification thereto. Owner's duties include administration of the Contract, including the negotiation of change orders and modifications and assessing Job Order Contractor's technical performance and progress; inspecting and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptance of the Work in its entirety or any portion thereof, as required by the Contract documents.

1.2. Job Order Contractor. Job Order Contractor means Job Order Contractor's senior manager or its duly authorized representative or any person specifically authorized to act for Job Order Contractor by executing the Contract, and any modifications thereto. Job Order Contractor's duties include administration of the Contract and performance of the Work.

1.3. Contract. Contract means this agreement including its attachments and any Job Orders that may be issued.

1.4. Subcontract. Subcontract means any Contract including purchase orders (other than one involving an employer-employee relationship) entered into by Job Order Contractor calling for equipment, supplies or services required for Contract performance, including any modifications thereto.

1.5. Job Order. Job Order means a specific written agreement between the Owner and the Job Order Contractor for Work to be performed under this Contract for an individual, mutually agreed upon scope of work, schedule and price.

1.6. Work. Work means in response to Job Orders that may be mutually agreed upon and issued periodically by Owner, Job Order Contractor shall, except as may be specified elsewhere in the Contract, furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management, and perform all operations necessary and required for survey, design, and construction work which will be defined and further described as to specific project requirements in each Job Order. The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"* (JOC General Scope of Services), *Attachment "B"* (SIQ & Contractor's Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor's Contacts), all of which are incorporated herein and made a part hereof.

1.7. Punch List Preparation. A minimum of thirty (30) days prior to Final Completion the Job Order Contractor, in conjunction with the Owner, shall prepare a comprehensive list of Punch list items, which the Owner may edit and supplement. The Job Order Contractor shall proceed promptly to complete and correct Punch list items. Failure to include an item on the Punch list does not alter the responsibility of the Job Order Contractor to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall not commence until the date of Final Completion unless otherwise provided in the Contract Documents.

1.8. Final Completion. Final Completion of the Work shall be deemed to have occurred on the later of the dates that the Work passes a Final Completion inspection and acceptance by the Owner. Final Completion shall not be deemed to have occurred and no final payment shall be due the Job Order Contractor or any of its subcontractors or suppliers until the Work has passed the Final Completion inspection and acceptance and all required Final Completion close-out documentation items has been produced to the Owner by the Job Order Contractor.

1.9. Reference Standards

1.9.1. The "Uniform Standard Specifications for Public Works Construction" and the "Uniform Standard Details for Public Works Construction" which are sponsored and distributed by the Maricopa Association of Governments (MAG), and which are hereinafter referred to as the "MAG Specifications", are hereby adopted as part of these contract documents.

1.9.2. July 15, 1997 by Section 23-50a of Ordinance 97-38, the City of Peoria adopted the "Uniform Standard Details for Public Works Construction from the Maricopa County Association of Governments by reference with certain exceptions.

1.9.3. A copy of these documents is kept on file at the Office of the City Clerk at the City of Peoria.

2. CONTRACT TERM

2.1. **Contract Term.** The term of the Contract shall commence on the date it was executed by both parties and shall continue for a period of one (1) year thereafter in accordance with the terms and conditions of this Contract. By mutual written Contract Amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months. Job Orders may be issued at any time during the term of this Contract. This Contract will remain in full force and effect during the performance of any Job Order.

2.2. **Job Order.** In response to Job Orders that may be mutually agreed upon and issued periodically by Owner, Job Order Contractor shall perform the Work, except as may be specified elsewhere in the Contract, which will be defined and further described as to specific project requirements in each Job Order. The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"* (JOC General Scope of Services), *Attachment "B"* (SIQ & Contractor's Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor's Contacts), all of which are incorporated herein and made a part hereof.

2.3. **Mutual Agreement.** This Contract embodies the agreement of Owner and Job Order Contractor to terms and conditions which will govern any Work that may be prescribed under a Job Order that may be issued by Owner and agreed to by Job Order Contractor. Nothing herein shall be construed as requiring Owner to issue any Job Order, nor requiring Job Order Contractor to accept any Job Order, it being the intent that both parties must mutually agree to any specific Work before a Job Order may be issued.

2.4. **Cooperative Purchasing:** This contract shall be for the use of the City of Peoria. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any the contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on the contract; the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement. Any orders placed to the contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

3. PERFORMANCE OF THE WORK

3.1. **Job Order Agreement.** Performance of the Work shall be undertaken only upon the issuance of written Job Orders by Owner. Job Orders shall be in accordance with the requirements specified in *Attachment "A"* (JOC General Scope of Services), and shall set forth, with the necessary particularity, the following:

- 3.1.1. Contract number along with Job Order Contractor's name;
- 3.1.2. Job Order number and date;
- 3.1.3. The agreed Work and applicable technical specifications and drawings;
- 3.1.4. The agreed period of performance and, if required by Owner, a work schedule;
- 3.1.5. The place of performance;

- 3.1.6. The agreed total price for the Work to be performed;
 - 3.1.7. Submittal requirements;
 - 3.1.8. Owner's authorized representative who will accept the completed Work;
 - 3.1.9. Signatures by the parties hereto signifying agreement with the specific terms of the Job Order;
- and
- 3.1.10. Such other information as may be necessary to perform the Work.

3.2. Job Order Contractor Duties and Obligations.

3.2.1. Permits & Responsibilities. Job Order Contractor shall be responsible for processing of drawings, for approval by appropriate oversight bodies; for obtaining any necessary licenses and permits; and for complying with any Federal, State and municipal laws, codes, and regulations applicable to the performance of the Work. Owner will reimburse Job Order Contractor for the actual, documented costs of construction permits required for the performance of the Work. Job Order Contractor shall also be responsible for all damages to persons or property that occur as a result of Job Order Contractor's fault or negligence, and shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others. Job Order Contractor shall also 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 accepted under the Contract.

3.2.2. Self-Performance By The Job-Order-Contractor. The JOC shall be allowed to bid as a subcontractor for work over \$50,000 and, if it is the lowest acceptable bidder. Any change orders for self-performed work shall require pre-approval by the owner.

3.2.3. Outdoor Construction Restrictions. Peoria Ordinance No. 98-11 restricts outdoor construction as listed in the following table:

	Construction Type	April 2 – September 29	September 30 – April 1
A	Concrete Work	5:00 a.m. to 7:00 p.m.	6:00 a.m. to 7:00 p.m.
B	Other Construction (within 500 feet of residential area)	6:00 a.m. to 7:00 p.m.	7:00 a.m. to 7:00 p.m.
C	Construction Work (more than 500 feet of residential area)	5:00 a.m. to 7:00 p.m.	5:00 a.m. to 7:00 p.m.

3.2.3.1. No interference with the traffic flow on arterial streets shall be permitted during the hours of 6:00 a.m. to 8:30 a.m. or from 4:00 p.m. to 7:00 p.m. unless prior authorization is obtained in writing by the City of Peoria Traffic Engineer or their assignee. Specific work hours may be stipulated by the City of Peoria on the project barricade plan.

3.2.3.2. During off peak hours, the minimum number of lanes shall be two lanes (one in each direction) on streets with four lanes or less and four lanes (two in each direction) on streets with five or more lanes.

3.2.3.3. Night work must have prior authorization from the City. In addition, certain areas of the City may have seasonal or special event restrictions for construction work as designated by the City on a case by case basis.

3.2.4. Jobsite Superintendent. During performance of a Job Order and until the Work is completed and accepted, Job Order Contractor shall directly superintend the Work or assign a competent superintendent who will supervise the performance of Work and is satisfactory to Owner and has authority to act for Job Order Contractor.

3.2.4.1. Job Order Contractor will ensure that the site supervisor for the project is English proficient and that there is at least one English proficient person at the construction site at all times work is being performed in order to communicate with the City's project manager.

3.2.5. Construction Layout. Job Order Contractor shall lay out its work in accordance with the Contract plans and specifications and shall be responsible for all measurements in connection with the layout of the Work. Job Order Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to layout any part of the Work. Job Order Contractor shall also be responsible for maintaining and preserving all control points established by Owner.

3.2.6. Survey Control Points. Existing survey markers (either brass caps or iron pipes) shall be protected by the Contractor or removed and replaced under direct supervision of the City Engineer or his authorized representatives. Survey monuments shall be constructed to the requirements of MAG Specifications, Section 405, and Standard Details. Lot corners shall not be disturbed without knowledge and consent of the property owner. The Contractor shall replace benchmarks, monuments, or lot corners moved or destroyed during construction at no expense to the Owner. Contractor and his sureties shall be liable for correct replacement of disturbed survey benchmarks except where the Owner elects to replace survey benchmarks using his own forces.

3.2.7. Traffic Regulations. All traffic affected by this construction shall be regulated in accordance with the City of Phoenix – Traffic Barricade manual, latest edition, and the City of Phoenix in the Traffic Barricade Manual shall be referred to as the City of Peoria City Engineer for interpretation.

At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measure, as necessary. At the same time the City will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried throughout the work area in an effective manner and that manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents.

3.2.7.1. The following shall be considered major streets: All major Parkway, mile (section line), arterial and collector (mid-section line and quarter section line) streets so classified by the City of Peoria.

3.2.7.2. All traffic control devices required for this project shall be the responsibility of the Contractor. The Contractor shall place advance warnings; **REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT** and **DO NOT PASS** signs in accordance with the Traffic Barricade Manual.

3.2.7.3. The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights signals and signs, and shall take all necessary precautions for the protection of the work and safety of the public. The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.

3.2.7.4. All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Contractor shall conform to the standard design, generally accepted for such purposes.

3.2.7.5. The Contractor shall insure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Contractor shall notify the Inspector at least forty eight (48) hours in advance for City personnel to temporarily relocate said signs. The City Engineer will re-set all traffic and street name signs to permanent locations when notified by the Engineer that construction is complete unless otherwise stated in the specifications. Payment for this item shall be made at the agreed upon contract allowance price for TRAFFIC CONTROL.

3.2.7.6. The Police Department shall determine if construction activities or traffic hazards at the construction project *require* the use of Police Assistants or AZ Post Certified Peace Officers, alternatively, *if the Police Department determines that* flagmen are *sufficient*, it shall be the Contractor's responsibility to provide adequate personnel including flagmen to direct traffic safely. All City of Peoria projects shall use only City of Peoria Police Assistants or City of Peoria AZ Post Certified Officers, unless the Police Chief or their designee has determined that no such assistants or officers are available. Arrangements for Police Assistant or Police Officer services should be made with the liaison officer at the Peoria Police Department via email at offduty@peoriaaz.gov.

3.2.7.7. Manual traffic control shall be in conformity with the Traffic Barricade Manual. A traffic control plan shall be submitted to the Peoria Police Department indicating whether a need for traffic control exists during the project. The traffic control plan shall be submitted electronically and the liaison officer shall be contacted at the Peoria Police Department via email at offduty@peoriaaz.gov.

3.2.7.8. When traffic hazards at construction sites warrant the use of certified police personnel to direct traffic, arrangement should be made with the liaison officer at the Peoria Police Department via email at offduty@peoriaaz.gov.

3.2.7.9. The assembly and turnarounds of the Contractor's equipment shall be accomplished using adjacent local streets when possible.

3.2.7.10. Equipment used and/or directed by the Contractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Provide a flagman or officer to assist with this operation.

3.2.7.11. During construction, it may be necessary to alter traffic control. Alterations shall be in accordance with the Traffic Barricade Manual.

3.2.7.12. No street within this project may be closed to through traffic or to local emergency traffic without prior written approval of the City Engineer of the City of Peoria. Written approval may be given if sufficient time exists to allow for notification of the public at least two (2) days in advance of such closing. Partial closure of streets within the project shall be done in strict conformity with written directions to be obtained from the City Engineer.

3.2.7.13. Caution should be used when excavating near intersections with traffic signal underground cable. Notify the City Engineer twenty four (24) hours in advance of any work at such intersections. The Contractor shall install and maintain temporary overhead traffic signal cable as specified by the City Engineer when underground conduit is to be severed by excavations at intersections. The Contractor shall provide an off-duty uniformed police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the City Engineer's satisfaction. Magnetic detector loops shall under no circumstances be spliced.

3.2.7.14. The Contractor shall address how local access to adjacent properties will be handled in accordance with the specification herein.

3.2.7.15. Where crossings of existing pavements occur, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow as determined by the City Engineer or his authorized representative. If plates cannot be used, crossings shall be back-filled or the Contractor shall provide a detour.

3.2.8. Operations & Storage. Job Order Contractor shall confine all operations (including storage of materials) to areas authorized or approved by Owner.

3.2.9. Cleaning Up & Refuse Disposal. Job Order Contractor shall at all times keep the site, including storage areas, free from accumulations of waste materials. Before completing the Work, Job Order Contractor shall remove from the premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of Owner. Upon completing the Work, Job Order Contractor shall leave the site in a clean and orderly condition satisfactory to Owner.

3.2.9.1. Final cleanup of the premises shall be included in the period of performance of the Job Order.

3.2.9.2. Job Order Contractor shall be responsible for all construction refuse disposal containers and their removal from the site.

3.2.9.3. Disposal of any hazardous materials not addressed and priced in the Job Order will be segregated for disposal by Owner unless Owner requires Job Order Contractor to dispose of the materials in which case, an equitable adjustment in the price will be negotiated and agreed.

3.2.9.4. The Contractor and/or subcontractor shall be required to use the City of Peoria Solid Waste Division's services for commercial collection of Solid Waste. This requirement is not intended to preclude other methods or means for hauling debris or excess material from the project site such as trucking large volumes of material, including soil, building demolition, or hazardous and special wastes. The intent is to use City of Peoria Solid Waste service where standard waste disposal is needed. Specifically, all roll-off and front-load containers used on a City of Peoria construction site shall be contracted for through the City of Peoria Solid Waste Division at the prevailing rate. It is the contractor's responsibility to contact and make all necessary arrangements with the City of Peoria Solid Waste Division for these services. Any and all charges for these services are the responsibility of the contractor. The City Solid Waste Division may, at its option, decline to provide service for business reasons at any time during the contract. Any exceptions to this requirement will be at the sole discretion of the City Solid Waste Division. Please contact the Solid Waste Customer Service Representatives at 623-773-7160.

3.2.10. Existing Improvements and Utilities. Job Order Contractor shall protect from damage all existing improvements and utilities at or near the site and on adjacent property of third parties, the locations of which are made known to or should be known by Job Order Contractor. Job Order Contractor shall repair any damage to those facilities, including those that are the property of third parties, resulting from failure to comply with the requirements of the Job Order or failure to exercise reasonable care in performing the Work. If Job Order Contractor fails or refuses to repair the damage promptly, Owner may have the necessary repair work performed and charge the cost to Job Order Contractor.

3.2.11. Safety. Job Order Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1970 (OSHA), all applicable state and local laws, ordinances, and regulations during the performance of the Work. Job Order Contractor shall indemnify Owner for fines, penalties, and corrective measures that result from the acts of commission or omission of Job Order Contractor, its subcontractors, if any, agents, employees, and assigns and its failure to comply with such safety rules and regulations.

3.2.11.1. **Job Order Contractor Safety Compliance.** Job Order Contractor shall furnish and enforce the use of individual protective equipment as needed to complete the Work, including hard hats, rain gear, protective foot wear, protective clothing and gloves, eye protection, ear protection, respirators, safety belts, safety harnesses, safety lifelines and lanyards, and high visibility reflective safety vests.

3.2.11.2. **Job Order Contractor Provided Warnings.** Job Order Contractor shall provide warning signs, barricades and verbal warnings as required.

3.2.11.3. **Emergency Procedures.** Job Order Contractor shall inform its employees of emergency procedures to be adhered to in case of a fire, medical emergency, or any other life-threatening situations.

3.2.11.4. **Accident Notification.** Job Order Contractor shall promptly notify Owner of any recordable accident involving personnel or damage to material and equipment. Copies of any injury reports or accident investigation reports shall be provided to the Owner.

3.2.11.5. **Jobsite Safety Documents.** Job Order Contractor shall maintain a set of OSHA articles and Material Safety Data Sheets (MSDS) at the jobsite office as they apply to the Work being performed. Copies shall be provided to Owner when requested.

3.2.11.6. **Job Order Contractor's Safety Program.** Job Order Contractor shall submit to Owner a copy of its safety policies and program procedures which establish the safety rules and regulations as they are to be applied to performance of the Work. These documents shall be submitted by Job Order Contractor within fourteen (14) calendar days after issuance of the initial Job Order and prior to the commencement of the Work.

3.2.11.7. **Job Order Contractor Safety Representative.** Job Order Contractor shall assign, during performance of the Work, a designated safety representative to develop and monitor the project safety program. The name, company address, and telephone number of the assigned individual shall be submitted to Owner by Job Order Contractor along with its safety policies and program procedures.

3.2.11.8. **Emergency Medical Treatment.** Job Order Contractor shall make available for its employees and those of its subcontractors, while they are performing Work on the site, emergency medical treatment either at the site or at a nearby medical facility.

3.2.11.9. **Owner's Right to Monitor.** Owner reserves the right to approve and monitor Job Order Contractor's safety policies and program procedures as applied during performance of the Work. Failure to comply with safety policies and program procedures, once approved by Owner, shall be cause for the termination of the Job Order in accordance with § 14.

3.2.11.10. **First Aid Kit.** Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a completely stocked first aid kit which contains all standard emergency medical supplies.

3.2.11.11. **Fire Extinguisher.** Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a fully charged fire extinguisher appropriate for the potential fire hazard.

3.2.12. **Dissemination of Contract Information.** Job Order Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning this Contract, any Job Order or the Work performed under this Contract, without the prior consent of Owner.

3.2.13. **Shop Drawings.** Job Order Contractor's duties under this Contract include the preparation of shop drawings or sketches necessary to permit orderly construction of Owner's design plans. Job Order Contractor agrees to provide detailed design drawings and plans if requested by Owner.

3.2.14. **Jobsite Drawings and Specifications.** Job Order Contractor shall keep on the Work site a copy of the drawings and specifications and shall at all times give Owner access thereto.

3.3. **Owner Rights and Obligations.**

3.3.1. **Suspension of Work.**

3.3.1.1. **Owner's Written Order.** Owner may order Job Order Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for a period of time that Owner determines reasonably appropriate.

3.3.1.2. **Work Delay or Suspension.** If the performance of all or any part of the Work is suspended, delayed, or interrupted by an act of Owner in the administration of a Job Order, or by Owner's failure to act within the time specified in the Job Order, an adjustment shall be made for any increase in the cost of performance of the Job Order necessarily caused by the suspension, delay, or interruption, and the Job Order will be modified in writing accordingly.

3.3.1.3. **Job Order Contractor Costs.** A claim under this Subparagraph 3.3.1 shall not be allowed for any costs incurred more than thirty (30) calendar days before Job Order Contractor shall have notified Owner in writing of the act or failure to act (but this requirement shall not apply as to a claim resulting from a suspension order), and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Job Order.

3.3.2. **Owner's Right to Possession.** Owner shall have the right to take possession of or use any completed or partially completed part of the Work. Before taking possession of or using any Work, Owner shall furnish Job Order Contractor a list of items of work remaining to be performed or corrected on those portions of the Work that Owner intends to take possession of or use. However, failure of Owner to list any item of Work shall not relieve Job Order Contractor of responsibility for complying with the terms of this Contract. Owner possession or use shall not be deemed an acceptance of any Work under this Contract.

3.3.2.1. **Owner's Possession or Use.** While Owner has such possession or use, Job Order Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from Owner's possession or use, notwithstanding the terms of Subparagraph 3.2.1. If prior possession or use by Owner delays the progress of the Work or causes additional expense to Job Order Contractor, an equitable adjustment shall be made in the Job Order price or the period of performance, and the Job Order shall be modified in writing accordingly.

3.3.3. Other Contracts. Owner may undertake or award other Contracts for additional work at or near the site of Work under this Contract. Job Order Contractor shall fully cooperate with the other Job Order Contractors and with Owner's employees and shall carefully adapt scheduling and performing the Work under this Contract to accommodate the additional work, heeding any direction that may be provided by Owner. Job Order Contractor shall not commit or permit any act that will interfere with the performance of its Work by any other contractor or by Owner's employees.

3.4. Job Order Amendment. Job Orders may be amended by Owner in the same manner as they are issued.

3.5. Job Order Value. The maximum Job Order value is Three Million Dollars (\$3,000,000), except as provided by § 16.32.1.

4. JOB ORDER DOCUMENTS

4.1. Specification and Drawings. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of differences between drawings and specifications, the drawings shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to Owner, who shall promptly make a determination in writing. Any adjustment by Job Order Contractor without such a determination shall be at its own risk and expense. Owner shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.

4.1.1. Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of Owner is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" Owner, unless otherwise expressly stated.

4.1.2. Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying the Contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed.

4.2. Shop Drawings. Shop drawings include sketches, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by Job Order Contractor to explain in detail specific portions of the Work. Owner may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under the Contract. Shop drawings means drawings submitted to Owner by Job Order Contractor showing in detail:

4.2.1. The proposed fabrication and assembly of structural elements and,

4.2.2. The installation (i.e., form, fit and attachment details) of materials or equipment.

4.2.3. The construction and detailing of elements of the Work.

4.3. Shop Drawing Coordination. Job Order Contractor shall coordinate all shop drawings, and review them for accuracy, completeness, and compliance with Contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to Owner without evidence of Job Order Contractor's approval may be returned for resubmission. Owner will indicate its approval or disapproval of the shop drawings and if not approved as submitted shall indicate Owner's reasons therefore. Any work done before such approval shall be at Job Order Contractor's risk. Approval by Owner shall not relieve Job Order Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of the Contract, except with respect to variations described and approved in accordance with § 4.4 below.

4.4. Shop Drawing Modifications. If shop drawings show variations from the Job Order requirements, Job Order Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If Owner approves any such variation, Owner shall issue an appropriate Contract modification, except that, if the

variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

4.5. Shop Drawing Omissions. Omissions from the drawings or specifications or the mis-description of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve Job Order Contractor from performing such omitted or mis-described details of the Work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

4.6. Owner Furnished Drawings. Job Order Contractor shall check all Owner furnished drawings immediately upon receipt and shall promptly notify Owner of any discrepancies. Any errors or omissions in Owner furnished drawings are the responsibility of the Owner to rectify, including associated costs. Figures marked on drawings shall be followed in preference to scale measurements. Large scale drawings shall govern small scale drawings. Job Order Contractor shall compare all drawings and verify the figures before laying out the Work and will be responsible for any errors which might have been avoided thereby.

4.7. Shop Drawing Submittal. Job Order Contractor shall submit to Owner for approval an appropriate number of copies of all shop drawings as called for under the various headings of these specifications. Sets of all shop drawings will be retained by Owner and one set will be returned to Job Order Contractor with annotation of approval or rejection within one (1) week after submission, unless a longer review period is necessary by mutual agreement between Owner and Job Order Contractor.

4.8. Use of Job Order Documents. All drawings (to include as-built drawings), sketches, designs, design data, specifications, note books, technical and scientific data provided to Job Order Contractor or developed by Job Order Contractor pursuant to the Contract and all photographs, negatives, reports, findings, recommendations, data and memoranda of every description relating thereto, as well as all copies of the foregoing relating to the Work or any part thereof, shall be the property of Owner and may be used by Owner without any claim by Job Order Contractor for additional compensation, unless such material developed by Job Order Contractor does not result in an issued Job Order. In such cases, Job Order Contractor will receive reasonable reimbursement for the development of such materials before Owner uses them in any manner whatsoever. In addition, Owner agrees to hold Job Order Contractor harmless to the extent permitted by law from any legal liability arising out of the Owner's use of such materials.

5. MATERIAL AND WORKMANSHIP

5.1. Suitability of Material and Equipment. All equipment, material, and articles incorporated in the Work covered by this Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract. References in the specifications to equipment, material, article, or patented process by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. Job Order Contractor may, at its option, use any equipment, material, article, or process that, in the sole judgment and prior written approval of the Owner, is equal to that named in the specifications.

5.2. Owner Approval. Job Order Contractor shall obtain Owner's approval of the equipment to be incorporated into the Work. When requesting approval, Job Order Contractor shall furnish to Owner the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the equipment. When required by the Contract or by Owner, Job Order Contractor shall also obtain Owner's approval of the material or articles which Job Order Contractor contemplates incorporating into the Work. When requesting approval, Job Order Contractor shall provide full information concerning the material or articles. When directed to do so, Job Order Contractor shall submit samples for approval. Machinery, equipment, material and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

5.3. Testing of Materials. Unless otherwise specified in a Job Order, the Job Order Contractor shall be responsible for any required testing of materials prior to incorporation into the Work. Reimbursement for testing required by third party entities will be included in the individual Job Order.

5.4. Workmanship. All work under the Contract shall be performed in a skillful and workmanlike manner.

6. SITE CONDITIONS

6.1. **Site Investigation.** Job Order 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, including but not limited to:

- 6.1.1. Conditions bearing upon transportation, disposal, handling, and storage of materials;
- 6.1.2. The availability of labor, water, electric power, and roads;
- 6.1.3. Uncertainties of weather, river stages, tides, or similar physical conditions at the site;
- 6.1.4. The visible conformation and conditions of the ground; and
- 6.1.5. The character of equipment and facilities needed preliminary to and during work performance.

6.2. **Surface and Subsurface Investigation.** Job Order Contractor also 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 Owner, as well as from the drawings and specifications made a part of this Contract. Owner will provide to Job Order Contractor all subsurface investigation reports it has commissioned, and has knowledge of, that reasonably reflect expected conditions at the location of the Job Order.

6.3. **Differing Site Conditions.** Job Order Contractor shall promptly, and before the conditions are disturbed, give a written notice to Owner of:

6.3.1. Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract, or

6.3.2. Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

6.4. **Owner Investigation.** Owner shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in Job Order Contractor's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made and the Job Order modified in writing accordingly.

6.5. **Written Notice of Differing Site Conditions.** No request by Job Order Contractor for an equitable adjustment to a Job Order under this § 6 shall be allowed, unless Job Order Contractor has given the written notice required.

6.6. **Payment Adjustment.** No request by Job Order Contractor for an equitable adjustment to a Job Order for differing site conditions shall be allowed if made after final payment under such Job Order.

7. JOB ORDER SCHEDULES

7.1. **Construction Schedule.** If the Job Order Contractor fails to submit a schedule with the Job Order, Owner may withhold approval of progress payments until Job Order Contractor submits the required schedule. If required, the Job Order Contractor will submit for approval with the signed Job Order a practicable schedule showing the sequence in which Job Order Contractor proposes to perform the Work, and the dates on which Job Order Contractor contemplates starting and completing the several salient features of the Work (including acquiring materials, plant and equipment). The schedule may be a formal computerized schedule or a progress chart in a bar chart format of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. In either case, the basic information should be the same and the schedule or chart must contain as a minimum:

7.1.1. A detailed list of work activities or work elements.

7.1.2. Show the logical dependencies (ties) to indicate what Work must be accomplished before other Work can begin.

7.1.3. Show early start and early finish dates along with late start and late finish dates for each work activity or work element.

7.2. **Failure to Submit Schedule.** Failure of Job Order Contractor to comply with the requirements of Owner under this clause shall be grounds for a determination by Owner that Job Order Contractor is not prosecuting the Work with sufficient diligence to ensure completion within the time specified in the Job Order. Upon making this determination, Owner may terminate Job Order Contractor's right to proceed with the Work if not cured within seven (7) days after written notice is provided, or any separable part of it, in accordance with § 14.

7.3. **Progress Report.** Job Order Contractor shall submit a progress report every thirty (30) days, or as directed by Owner, and upon doing so shall immediately deliver a current schedule to Owner if it has materially changed since the last submission of a schedule. If Job Order Contractor falls behind the approved schedule, Job Order Contractor shall take steps necessary to improve its progress, including those that may be reasonably required by Owner. Without additional cost to Owner, Owner may require Job Order Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant or equipment, and to submit for approval any supplementary schedule or schedules in chart form as Owner deems necessary to demonstrate how the approved rate of progress will be regained.

7.4. **Emergency Work.** Job Order Contractor will give top priority to any emergency Work Owner may have and will allocate all resources necessary to accomplish such Work in accordance with Owner's schedule requirements. To the extent the Job Order Contractor incurs additional cost, expense or schedule delay in performing Owner's emergency Work, Owner will equitably adjust the Contract in accordance with § 10.

8. INSPECTION OF CONSTRUCTION AND ACCEPTANCE

8.1. **Job Order Contractor Inspection System.** Job Order Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the Work called for conforms to Job Order requirements. Job Order Contractor shall maintain complete inspection records and make them available to Owner. All work shall be conducted under the general direction of Owner and is subject to inspection and test by Owner at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract.

8.2. **Owner Inspections and Tests.** Owner inspections and tests are for the sole benefit of Owner and do not:

8.2.1. Relieve Job Order Contractor of responsibility for providing adequate quality control measures;

8.2.2. Relieve Job Order Contractor of responsibility for damage to or loss of the material before acceptance;

8.2.3. Constitute or imply acceptance; or

8.2.4. Affect the continuing rights of Owner after acceptance of the complete work.

8.3. **Job Order Contractor Responsibilities.** The presence or absence of an inspector does not relieve Job Order Contractor from any Contract requirement, nor is the inspector authorized to change any term or condition of the specification without Owner's written authorization.

8.4. **Job Order Contractor Performance.** Job Order Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner. Owner may charge to Job Order Contractor any additional cost of inspection or test when Work is not ready at the time specified by Job Order Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. Owner shall perform all inspections and tests in a manner that will not unnecessarily delay the Work. Special, full size and performance tests shall be performed as described in the Job Order.

8.5. **Job Order Contractor Corrective Work.** Job Order Contractor shall, without charge, replace or correct Work found by Owner not to conform to Job Order requirements, unless Owner consents to accept the Work with an appropriate adjustment in Contract price. Job Order Contractor shall promptly segregate and remove rejected material from the premises.

8.6. Failure to Replace or Correct Work. If Job Order Contractor does not promptly replace or correct rejected Work, Owner may:

8.6.1. By Contract or otherwise, replace or correct the Work and charge the cost to Job Order Contractor;
or

8.6.2. Terminate for default Job Order Contractor's right to proceed.

8.7. Owner Inspection before Acceptance. If, before acceptance of the entire Work, Owner decides to examine already completed Work by removing it or tearing it out, Job Order Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the Work is found to be defective or nonconforming in any material respect due to the fault of Job Order Contractor or its subcontractors, Job Order Contractor shall bear the expenses of the examination and of satisfactory reconstruction. However, if the Work is found to meet requirements, Owner shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the Work was thereby delayed, an extension of the period of time for performance.

8.8. Owner Acceptance. Unless otherwise specified in the Job Order, Owner shall accept, as promptly as practicable after completion and inspection, all work required by the Job Order or that portion of the Work that the Owner determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or Owner's rights under any warranty or guarantee.

9. INVOICING AND PAYMENT

9.1. Compensation. As full consideration for the satisfactory performance by Job Order Contractor of Work prescribed under the Contract, Owner shall pay Job Order Contractor the amounts specified in the individual Job Orders.

9.2. Invoices. Job Order Contractor shall submit invoices to the following address:

City of Peoria
8401 W. Monroe St
Peoria, AZ 85345

9.3. Job Order Cost Proposal Structure. For each Job Order, the Job Order Contractor shall prepare a Job Order Cost Proposal with the sufficient level of cost detail as required by the Owner. Cost detail may include, but is not limited to: schedule of values, work schedule, direct labor cost and fringe benefits, direct material costs (supported by quotes), direct equipment costs (supported by quotes), cost of subcontractors (supported by quotes) and allowable indirect costs (includes insurance). The contractor shall utilize the markups established in the JOC Pricing Matrix (*Attachment C*) to calculate the overhead and profit for all Job Order Cost Proposals, unless otherwise requested by the Owner. Profit on subcontractors/subconsultants shall not exceed 5 percent.

9.4. Progress Payments. Owner shall make progress payments monthly as the Work proceeds, or at more frequent intervals as determined by Owner, on estimates of Work completed submitted by the Job Order Contractor and approved by Owner. Job Order Contractor shall use an acceptable invoice form and shall include supporting documents to reflect a breakdown of the total price showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining progress payments. In the estimation of Work completed, Owner will authorize payment for material delivered on the site and preparatory work done if Job Order Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform the Work.

9.5. Retention. Not applicable.

9.6. Owner's Property. All material and work covered by progress payments made shall, at the time of payment, become the sole property of Owner, but this provision shall not be construed as:

9.6.1. Relieving Job Order Contractor from the sole responsibility for all material and Work upon which payments have been made or the restoration of any damaged Work; or

9.6.2. Waiving the right of Owner to require the fulfillment of all of the terms of the Contract.

9.7. **Approval and Certification.** An estimate of the Work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the Owner or Owner's agent prepares and issues a specific written finding setting forth those items in detail in the estimate of the Work that are not approved for payment under this contract. The Owner may withhold an amount from the progress payment sufficient to pay the expenses the Owner reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before fourteen days after the estimate of the Work is certified and approved. The estimate of the Work shall be deemed received by the Owner on submission to any person designated by the Owner for the submission, review or approval of the estimate of the Work.

9.8. **Unpaid Amounts.** Owner shall pay all unpaid amounts due Job Order Contractor under this Contract within thirty (30) days, after:

9.8.1. Completion and acceptance of the Work;

9.8.2. Presentation of a properly executed invoice;

9.8.3. Presentation of release of all claims against Owner arising by virtue of the Contract, other than claims, in stated amounts, that Job Order Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if Job Order Contractor's claim to amounts payable under this Contract has been assigned. Job Order Contractor shall complete a Job Order Contractor's release form acceptable to Owner; or

9.8.4. Consent of Job Order Contractor's surety, if any.

10. CHANGES

10.1. **Owner Changes.** Owner may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Job Orders, including changes:

10.1.1. In the specifications (including drawings and designs);

10.1.2. In Owner-furnished facilities, equipment, materials, services, or site; or

10.1.3. Directing acceleration in the performance of the Work, or otherwise altering the schedule for performance of the Work.

10.2. **Owner Change Orders.** Any other written order (which, as used in this paragraph, includes direction, instruction, interpretation, or determination) from Owner that causes a change shall be treated as a change order under this § 10; provided, that Job Order Contractor gives Owner timely written notice stating the date, circumstances, and source of the order and that Job Order Contractor regards the order as a change order.

10.3. **Contract Adjustments.** Except as provided in this § 10, no order, statement, or conduct of Owner shall be treated as a change under this § 10 or entitle Job Order Contractor to an equitable adjustment hereunder.

10.4. **Modification of the Job Order.** If any change under this § 10 causes an increase or decrease in Job Order Contractor's cost of, or the time required for, the performance of any part of the Work under a Job Order, whether or not changed by any such order, Owner shall negotiate an equitable adjustment and modify the Job Order in writing.

10.5. **Job Order Contractor Proposal.** Job Order Contractor must submit any proposal under this § 10 within thirty (30) calendar days after:

10.5.1. Receipt of a written change order under § 10.1 above; or

10.5.2. The furnishing of a written notice under § 10.2 above by submitting to Owner a written statement describing the general nature and amount of the proposal, unless this period is extended by Owner. The statement of proposal for adjustment may be included in the notice under § 10.2 above.

10.6. Final Payment Limitation. No proposal by Job Order Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Job Order.

10.7. Job Order Contractor Extension Justification. Job Order Contractor shall furnish to the Owner a written proposal for any proposed extension in the period of performance. The proposal shall contain a price breakdown and period of performance extension justification.

10.8. Job Order Contractor Price Breakdown Structure. Job Order Contractor, in connection with any proposal it makes for a Job Order change shall furnish a price breakdown itemized as required by Owner and the pricing matrix as required in the awarded contract.

11. INSURANCE & BONDS

11.1. Job Order Contractor Insurance. Job Order Contractor shall purchase and maintain in effect during the term of this Contract insurance of the types and with minimum limits of liability as stated below. Such insurance shall protect Job Order Contractor and Owner from claims which may arise out of or result from Job Order Contractor's operations whether such operations are performed by Job Order Contractor or by any subcontractor or by anyone for whose acts any of them may be liable.

11.1.1. WORKERS' COMPENSATION INSURANCE providing statutory benefits in accordance with the laws of the State of Arizona or any Federal statutes as may be applicable to the Work being performed under this Contract.

11.1.2. EMPLOYER'S LIABILITY INSURANCE with limits of liability not less than: \$1,000,000 Each Accident; \$1,000,000 Each Employee for Disease; and \$1,000,000 Policy Limit for Disease.

11.1.3. COMMERCIAL GENERAL LIABILITY INSURANCE including Products/Completed Operations and Contractual Liability with limits of liability not less than: \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate; and \$2,000,000 Each Occurrence.

11.1.4. AUTOMOBILE LIABILITY INSURANCE covering all owned, hired and non-owned motor vehicles used in connection with the Work being performed under this Contract with limits of liability not less than: \$1,000,000 Each Person for Bodily Injury; \$1,000,000 Each Accident for Bodily Injury; and \$1,000,000 Each Occurrence for Property Damage.

11.2. Owner as Additional Insured. The policies providing Commercial General Liability and Automobile Liability insurance as required in § 11.1 shall be endorsed to name Owner as Additional Insured. Such insurance as is provided herein shall be primary and non-contributing with any other valid and collectible insurance available to Owner.

11.3. Policy Endorsement. All policies providing Job Order Contractor's insurance as required in § 11.1 above shall be endorsed to provide the following:

11.3.1. Thirty days written notice of cancellation or non-renewal given to Owner at the address designated in § 16.2.

11.3.2. Waiver of subrogation in favor of Owner.

11.4. Limits of Liability. The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above.

11.5. Certificate of Insurance. Proof of compliance with these insurance requirements shall be furnished Owner in the form of an original certificate of insurance signed by an authorized representative or agent of the insurance company(ies) within ten (10) days of execution of this agreement. Renewal or replacement certificates shall be furnished Owner not less than twenty-one (21) days prior to the expiration or termination date of the applicable policy(ies).

11.6. Subcontractor Insurance. Job Order Contractor shall require any and all subcontractors performing Work under this Contract to carry insurance of the types and with limits of liability as Job Order Contractor shall

deem appropriate and adequate for the Work being performed. Job Order Contractor shall obtain and make available for inspection by Owner upon request current certificates of insurance evidencing insurance coverages carried by such subcontractors.

11.7. Bonds. If required by Owner, Job Order Contractor shall furnish Performance and Payment Bonds, each in an amount equal to one hundred percent (100%) of the Construction Work, (excluding design and pre-construction services) in a penal sum equal to the aggregate price of all Job Orders issued to the Job Order Contractor. The Performance and Payment Bonds must be submitted to Owner within ten (10) calendar days after issuance of a Job Order.

11.8. Notice to Proceed. Notice to Proceed will not be issued until properly executed bonds are received and accepted by Owner. A separate Notice to Proceed will be issued for each Job Order. The Notice to Proceed shall stipulate the actual contract start date, the contract duration and the contract completion date. The time required for the Contractor to obtain permits, licenses and easements shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. The time required for the Contractor to prepare, transmit and obtain approval of applicable submittals shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. No work shall be started until after all required permits, licenses, and easements have been obtained. No work shall be started until all applicable submittals have been submitted and returned approved by the Owner's Representative. The Contractor shall notify the City of Peoria's project manager or engineer at least seventy-two (72) hours before the following events:

11.8.1. The start of construction in order to arrange for inspection.

11.8.2. Shutdown of City water, sewer, drainage, irrigation and traffic control facility.

11.8.3. Shutdown of existing water wells and booster pumps. Shutdown shall not exceed seventy-two (72) hours for any installation. Only one installation may be shutdown at any time.

11.8.4. Coordination of all draining and filling of water lines and irrigation laterals and all operations of existing valves or gages with the project manager.

11.8.5. Start-up or testing of any water well or booster pump to be connected to any part of the existing City water system. This includes operation of existing valves necessary to accommodate the water.

12. INDEMNIFICATION. To the fullest extent permitted by law, the Job Order Contractor, subcontractor or design professional shall indemnify and hold harmless the City, and its officers and employees, from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such Job Order Contractor, subcontractor or design professional or other persons employed or used by such Job Order Contractor, subcontractor or design professional in the performance of the contract or subcontract. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

13. DISPUTES.

13.1. Party Cooperation. The parties are fully committed to working with each other throughout the term of the Contract and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Job Order Contractor and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

13.2. Field Level Resolution. Job Order Contractor and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between the parties' representatives named herein.

13.3. Job Order Contractor Performance. The Job Order Contractor shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Job Order Contractor, pending the final resolution of any dispute or disagreements between the parties.

13.4. Partnering. If requested and mutually agreed upon, the Owner and Job Order Contractor will share in the expense of an initial facilitated partnering workshop, followed up by periodic refresher meetings at mutually

agreed times. The goal of the workshop will be to identify common goals, common interests, lines of communication, and a commitment to cooperative problem solving.

13.5. Owner's Representative. Owner designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract. (Identify individual's name, title, address and telephone numbers)

City of Peoria, Materials Management
Dan Zenko, Materials Manager
9875 N. 85th Ave – 2nd Floor
Peoria, AZ 85345
(623) 773-7115

13.6. Job Order Contractor's Representative. Job Order Contractor designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract. (Identify individual's name, title, address and telephone numbers)

Dan Kuwitzky, VP of Construction
480-894-2835, 1614 E.
Curry Rd. Tempe, AZ.
85281
Valley Rain

13.7. Owner's Resolution. Any dispute which is not disposed of by agreement will be decided by the Owner, who will reduce its decision to writing and mail or otherwise furnish a copy thereof to the Job Order Contractor. Any dispute not finally resolved under this § 13 may be brought before the state courts of the State of Arizona and adjudicated in accordance with the laws of Arizona.

14. TERMINATION AND DEFAULT

14.1. Termination for Convenience. Owner may terminate performance of the Work under this Contract in whole or, from time to time, in part if Owner determines that termination is in Owner's interest. Owner shall effect such termination by delivering to Job Order Contractor a Notice of Termination specifying the extent of termination and the effective date.

14.2. Notice of Termination. After receipt of a Notice of Termination, and except as directed by Owner, Job Order Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this § 14:

14.2.1. Stop work as specified in the notice;

14.2.2. Place no further subcontracts or orders (referred to as subcontracts in this § 14) for materials, services or facilities, except as necessary to complete any Work not terminated;

14.2.3. Assign to Owner, if directed by Owner, all right, title, and interest of Job Order Contractor under the subcontracts to the extent they relate to the Work terminated, in which case Owner shall have the right to settle or to pay any termination settlement proposal arising out of those terminations, or with approval or ratification to the extent required by Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the approval or ratification of which will be final for purposes of this § 14;

14.2.4. As directed by Owner, transfer title and deliver to Owner:

14.2.4.1. The fabricated or unfabricated parts, Work in progress, completed Work, supplies, and other material produced or acquired for the Work terminated;

14.2.4.2. The completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to Owner;

14.2.5. Complete performance of the Work not terminated;

14.2.6. Take any action that may be necessary, or that Owner may direct, for the protection and preservation of the property related to this Contract that is in the possession of Job Order Contractor and in which Owner has or may acquire an interest; and

14.2.7. Use its best efforts to sell, as directed or authorized by Owner, any property of the types referred to in § 14.2.3 above; provided, however, that Job Order Contractor is not required to extend credit to any purchaser and may acquire the property under the conditions prescribed by, and at prices approved by, Owner. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Owner under the Contract, credited to the price or cost of the Work, or paid in any other manner directed by Owner.

14.3. **Final Termination Settlement Proposal.** After termination, Job Order Contractor shall submit a final termination settlement proposal to Owner in the form and with the certification prescribed by Owner. Job Order Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination.

14.4. **Owner Payment.** Job Order Contractor and Owner may agree upon the whole or any part of the amount to be paid because of the termination. The amount will include a reasonable allowance for profit on work done. The Contract shall be amended, and Job Order Contractor paid the agreed amount.

14.4.1. If Job Order Contractor and Owner fail to agree on the whole amount to be paid Job Order Contractor because of the termination of work, Owner shall pay Job Order Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under § 14.4 above:

14.4.1.1. For Work performed before the effective date of termination, the total (without duplication of any items) of:

14.4.1.1.1. The cost of this Work;

14.4.1.1.2. The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract if not included in § 14.4.1.1.1. above; and

14.4.1.1.3. A markup, including overhead and profit, on § 14.4.1.1.1. above as is determined for pricing changes.

14.4.1.2. The reasonable costs of settlement of the Work terminated, including:

14.4.1.2.1. Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

14.4.1.2.2. The termination and settlement of subcontracts (excluding the amounts of such settlements); and

14.4.1.2.3. Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

14.5. **Destroyed, Lost, Stolen or Damaged Property.** Except for normal spoilage, and except to the extent that Owner expressly assumed the risk of loss, Owner shall exclude from the amounts payable to Job Order Contractor under Subparagraph 14.4.1 above, the fair value, as determined by Owner, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to Owner or to a buyer.

14.6. **Amount Due Job Order Contractor.** In arriving at the amount due Job Order Contractor under this § 14, there shall be deducted:

14.6.1. All unliquidated advances or other payments to Job Order Contractor under the terminated portion of the Job Order;

14.6.2. Any claim which Owner has against Job Order Contractor under the Contract; and

14.6.3. The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by Job Order Contractor or sold under the provisions of this § 14 and not recovered by or credited to Owner.

14.7. Partial Termination. If the termination is partial, Job Order Contractor may file a proposal with Owner for an equitable adjustment of the price(s) of the continued portion of any Job Order. Any proposal by Job Order Contractor for an equitable adjustment under this § 14 shall be requested within ninety (90) calendar days from the effective date of termination unless extended in writing by Owner. Owner may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by Job Order Contractor of the terminated portion of any Job Order, if Owner believes the total of these payments will not exceed the amount to which Job Order Contractor will be entitled.

14.8. Excess Payments. If the total payments exceed the amount finally determined to be due, Job Order Contractor shall repay the excess to Owner upon demand.

14.9. Job Order Contractor Records. Unless otherwise provided in this Contract or by statute, Job Order Contractor shall maintain all records and documents relating to the terminated portion of this Contract for three (3) years after final settlement. This includes all books and other evidence bearing on Job Order Contractor's costs and expenses under this Contract. Job Order Contractor shall make these records and documents available to Owner, at Job Order Contractor's office, at all reasonable times, without cost. If approved by Owner, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

14.10. Default. If Job Order Contractor refuses or fails to prosecute the Work, or any separable part, with the diligence that will ensure its completion within the time specified in the Job Order including any extension, or fails to complete the Work within this time, Owner may terminate the Job Order Contractor's right to proceed with the Work (or separable part of the Work), upon thirty (30) days written notice to the Job Order Contractor. In this event, Owner may take over the Work and complete it by Contract or otherwise and may take possession of and use any materials, appliances, and plant on the site necessary for completing the Work.

14.11. Job Order Contractor's Right to Proceed. Job Order Contractor's right to proceed shall not be terminated under this § 14, if:

14.11.1. The delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of Job Order Contractor. Examples of such causes include: acts of God or of the public enemy, acts of Owner in its Contractual capacity, acts of another contractor in the performance of a Contract with Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather (The basis used to define normal weather will be data showing high and low temperatures, precipitation, and number of days of severe weather in the city closest to the site for the previous ten (10) years, as compiled by the United States Department of Commerce National Weather Service.), or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Job Order Contractor and the subcontractors or suppliers; and

14.11.2. Job Order Contractor, within 30 calendar days from the beginning of any such delay (unless extended by Owner), notifies Owner in writing of the causes of delay. The Owner shall ascertain the facts and the extent of delay. If, in the judgment of Owner, the findings of fact warrant such action, the time for completing the Work shall be extended. The findings of Owner shall be final and conclusive on the parties, but subject to appeal and review under § 13.

14.12. Owner's Right to Terminate. The rights and remedies of Owner in this § 14 are in addition to any other rights and remedies provided by law or under this Contract.

14.13. Owner and Job Order Contractor Rights. If, after termination of Job Order Contractor's right to proceed, it is determined that Job Order Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Owner.

14.14. Liquidated Damages. Liquidated Damages shall be assessed for each calendar of delay. Liquidated Damages shall be per MAG Specs., Section 108.9 per day for each calendar day of delay, based upon the total job order value to date (i.e phased project awards). If the contract is not

terminated, the contractor shall continue performance and be liable to the Owner for the liquidated damages until the products are delivered or services performed. In the event the City exercises its right of termination, the contractor shall be liable to the Owner for any excess costs, and in addition, for liquidated damages until such time the Owner may reasonably obtain delivery or performance of similar supplies or services.

14.15. Immigration Act. Contractor understands and acknowledges the applicability to Contractor of the Immigration Reform and Control Act of 1986 (IRCA). Contractor agrees to comply with the IRCA in performing under this contract and to permit City inspection of personnel records to verify such compliance.

15. WARRANTY OF CONSTRUCTION

15.1. Applicable Warranties. In addition to any other warranties in any Job Orders, Job Order Contractor warrants, except as provided in § 15.10, that work performed conforms to the Job Order requirements and is free of any defect in equipment, material or design furnished, or workmanship performed by Job Order Contractor or any of its subcontractors or suppliers at any tier.

15.2. Warranty Duration. This warranty shall continue for a period of one (1) year from the date of final acceptance of the Work. If Owner takes possession of any part of the Work before final acceptance, this warranty shall continue for a period of one (1) year from the date possession is taken.

15.3. Job Order Contractor Corrective Work. Job Order Contractor shall remedy at Job Order Contractor's expense any failure of the Work to conform to the plans and specifications, or any construction defect. In addition, the Job Order Contractor shall remedy at Job Order Contractor's expense any damage to Owner's real or personal property, when that damage is the result of:

15.3.1. Job Order Contractor's failure to conform to requirements; or

15.3.2. Any defect of equipment, material, workmanship, or design furnished by the Job Order Contractor.

15.4. Job Order Contractor Restoration. Job Order Contractor shall restore any work damaged in fulfilling the terms and conditions of this § 15. Job Order Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.

15.5. Owner Notification. Owner shall notify Job Order Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

15.6. Failure to Correct Work. If Job Order Contractor fails to remedy any failure, defect, or damage within ten (10) days after receipt of notice, Owner shall have the right to replace, repair, or otherwise remedy the failure, defect or damage at Job Order Contractor's expense.

15.7. Subcontractor and Supplier Warranties. With respect to all warranties, expressed or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished for Job Orders issued under this Contract, Job Order Contractor shall:

15.7.1. Obtain all warranties required by the Job Order;

15.7.2. Require all warranties to be executed, in writing, for the benefit of Owner; and

15.7.3. Enforce all warranties for the benefit of Owner.

15.8. Owner Remedy. In the event Job Order Contractor's warranty under § 15.2 has expired, Owner may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

15.9. Owner Furnished Material or Design. Unless a defect is caused by the negligence of Job Order Contractor or subcontractor or supplier at any tier, Job Order Contractor shall not be liable for the repair of any defects of material or design furnished by Owner or for the repair of any damage that results from any defect in Owner-furnished material or design.

15.10. Pre-Existing Work. Job Order Contractor is not responsible for and does not warranty pre-existing work or facilities that may be assigned to Job Order Contractor except as modified by the Job Order.

15.11. Owner's Rights. This warranty shall not limit Owner's rights under § 8 of this Contract with respect to latent defects, gross mistakes, or fraud.

16. STANDARD TERMS AND CONDITIONS

16.1. Contract Order of Precedence. In the event of an inconsistency between provisions of this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- 16.1.1. Contract Modifications, if any;
- 16.1.2. This Contract, including Attachments;
- 16.1.3. Job Orders;
- 16.1.4. Drawings; and
- 16.1.5. Specifications.

16.2. Certification. By signature in the Offer section of the Offer and Contract Award page the Job Order Contractor certifies:

16.2.1. The submission of the offer did not involve collusion or other anti-competitive practices.

16.2.2. The Job Order Contractor shall not discriminate against any employee or applicant for employment.

16.2.3. The Job Order Contractor 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 sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

16.2.4. The Job Order Contractor is licensed to perform the Work pursuant to Arizona Revised Statutes Title 32, Chapter 10.

16.3. Bribes and Kick-Backs. The Job Order Contractor shall not by any means:

16.3.1. Induce any person or entity employed in the construction of the Project to give up any part of the compensation to which that person or entity is entitled;

16.3.2. Confer on any governmental, public or quasi-public official having any authority or influence over the Project, any payment, loan subscription, advance, deposit of money, services or anything of value, present or promised;

16.3.3. Offer nor accept any bribes or kick-backs in connection with the Project from or to any individual or entity, including any of its trade contractors, subcontractors, consultants, suppliers or manufacturers of Project goods and materials; or,

16.3.4. Without the express written permission of the Owner, call for or by exclusion require or recommend the use of any subcontractor, consultant, product, material, equipment, system, process or procedure in which the Job Order Contractor has a direct or indirect proprietary or other pecuniary interest.

16.4. Applicable Law. In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

Contractor specifically understands and acknowledges the applicability to it of the Americans with Disabilities Act, including Section 508, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989. In addition, if this agreement pertains to construction, Contractor must also comply with A.R.S. § 34-301, as amended (Employment of Aliens on Public Works Prohibited) and A.R.S. § 34-302, as amended (Residence Requirements for Employees).

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors (“Subcontractors”) will comply with, and are contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter, “Contractor Immigration Warranty”).

A breach of the Contractor Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or the Subcontractor establishes that it has complied with the employment verification provisions prescribed by §§ 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who provide services under this agreement or any subcontract. “Services” is defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

16.4.1. Job Order Contractor warrants, for the term of this agreement and for six months thereafter, that is has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

16.4.2. This contract shall be governed by the Owner. City and Job Order Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the Owner. This contract shall be governed by the laws of the State of Arizona. Any lawsuit pertaining to this contract may be brought only in courts in the State of Arizona.

16.4.3. This contract is subject to the provisions of ARS § 38-511; the Owner may cancel this contract without penalty or further obligations by the Owner or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Owner or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party 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.

16.5. Legal Remedies: All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code.

16.6. Contract: The contract between the Owner and the Job Order Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, price sheet(s) and any amendments thereto, and (2) the offer submitted by the Job Order Contractor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the Owner reserves the right to clarify, in writing, any contractual terms with the concurrence of the Job Order Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor’s offer. The Solicitation shall govern in all other matters not affected by the written contract.

16.7. Contract Amendments: This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the Owner and the Job Order Contractor.

16.8. Contract Applicability: The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the Owner are not applicable to this Solicitation or any resultant contract.

16.9. Severability. The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

16.10. Relationship to Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Job Order Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Job Order Contractor should make arrangements to directly pay such expenses, if any.

16.11. No Delegation or Assignment.- Contractor shall not delegate any duty under this Contract, and no right or interest in this Contract shall be assigned by Contractor to any successor entity or third party, including but not limited to an affiliated successor or purchaser of Contractor or its assets, without prior written permission of the City. The City, at its option, may cancel this Contract in the event Contractor undertakes a delegation or assignment without first obtaining the City's written approval. Contractor agrees and acknowledges that it would not be unreasonable for the City to decline to approve a delegation or assignment that results in a material change to the services provided under this Contract or an increased cost to the City.

16.12. Job Order Contractor/Supplier Contract. The Job Order Contractor shall enter into written contracts with its subcontractor(s) and supplier(s), if any, and those written contracts shall be consistent with this Contract for Construction. It is the intent of the Owner and the Job Order Contractor that the obligations of the Job Order Contractor's subcontractor(s) and supplier(s), if any, inure to the benefit of the Owner and the Job Order Contractor, and that the Owner be a third-party beneficiary of the Job Order Contractor's agreements with its subcontractor(s) and supplier(s).

16.12.1. The Job Order Contractor shall make available to each subcontractor and supplier, if any, prior to the execution of written contracts with any of them, a copy of the pertinent portions of this Contract for Construction, including those portions of the Construction documents to which the subcontractor or supplier will be bound, and shall require that each subcontractor and supplier shall similarly make copies of applicable parts of such documents available to its respective subcontractor(s) and supplier(s).

16.12.2. The Job Order Contractor shall engage each of its subcontractor(s) and supplier(s) with written contracts which preserve and protect the rights of the Owner and include the acknowledgment and agreement of each subcontractor or supplier that the Owner is a third-party beneficiary of the contract. The Job Order Contractor's agreements with its subcontractor(s) and supplier(s) shall require that in the event of default under, or termination of, this Contract for Construction, and upon request of the Owner, the Job Order Contractor's subcontractor(s) and supplier(s) will perform services for the Owner.

16.12.3. The Job Order Contractor shall include in its agreements with its subcontractor(s) and supplier(s) a provision which contains the acknowledgment and agreement of the subcontractor or supplier that it has received and reviewed the applicable terms, conditions and requirements of this Contract for Construction that are included by reference in its written contract with the Job Order Contractor, and that it will abide by those terms, conditions and requirements.

16.13. Rights and Remedies. No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the Owner of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the Owner to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the Owner's acceptance of and payment for materials or services, shall not release the Job Order Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the Owner to insist upon the strict performance of the Contract.

16.14. Overcharges By Antitrust Violations. The Owner maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Job Order Contractor hereby assigns to the Owner any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

16.15. Force Majeure. Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure.

16.15.1. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God: acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

16.15.2. Force majeure shall not include the following occurrences: late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition; or any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

16.16. Right To Assurance. Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

16.17. Right To Audit Records. The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City. This right to audit also empowers the City to inspect the papers of any Contractor or Subcontractor employee who works on this contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty made pursuant to Paragraph 16.4 above.

16.18. Warranties. Job Order Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Job Order Contractor's response, the Owner is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by the Owner shall not alter or affect the obligations of the Job Order Contractor or the rights of the Owner under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

16.19. Inspection. All material and/or services are subject to inspection and acceptance by the Owner. Materials and/or services failing to conform to the specifications of this Contract will be held at Job Order Contractor's risk and may be returned to the Job Order Contractor. If so returned, all costs are the responsibility of the Job Order Contractor. The Owner may elect to do any or all of the following:

- 16.19.1.** Waive the non-conformance.
- 16.19.2.** Stop the work immediately.
- 16.19.3.** Bring material into compliance.
- 16.19.4.** This shall be accomplished by a written determination from the Owner.

16.20. Title and Risk of Loss. The title and risk of loss of material and/or service shall not pass to the Owner until the Owner actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

16.21. No Replacement of Defective Tender. Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

16.22. Shipment Under Reservation Prohibited. Job Order Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

16.23. Liens. All materials, service or construction shall be free of all liens, and if the Owner requests, a formal release of all liens shall be delivered to the Owner.

16.24. Licenses. shall maintain in current status, all Federal, State and Local licenses and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner.

16.25. Patents and Copyrights. All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner.

16.26. Cost of Bid/Proposal Preparation. The Owner shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

16.27. Public Records. All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code. However, subsequent to the award of the contract, any information and documents obtained by the City during the course of an audit conducted in accordance with Paragraph 16.17 above for the purpose of determining compliance by Contractor or a Subcontractor with the Contractor Immigration Warranty mandated by Paragraph 16.4 above shall remain confidential and shall not be made available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction.

16.28. Advertising. Job Order Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the Owner.

16.29. Delivery Orders. The Owner shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the signature page of the contract

16.30. Funding. Any contract entered into by the Owner of Peoria is subject to funding availability. Fiscal years for the Owner of Peoria are July 1 to June 30. The Owner Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

16.31. Federal Funding. It is the responsibility of the Contractor to determine on any single job order project if federal wage rates will apply. It is also the responsibility of the Contractor to incorporate any necessary amounts in the bid to accommodate for required federal record keeping and necessary pay structures. The Contractor should contact the City of Peoria regarding any applicable Davis Bacon wage rates.

16.31.1 Davis-Bacon Act - (40 U.S.C. §276a-276a-5). All contracts or subsequent subcontracts for construction, alteration, renovation, or repair, including painting and decorating, of a public building or public work, or building or work, financed by federal funds which meets the \$2,000 threshold are required to pay the federal prevailing wage rate for each class of laborer or mechanic employed. Regulations applicable to grant-enabling statutes incorporating the Act can be found in 29 Code of Federal Regulations (CFR), Parts 1,3,5 and 7. These regulations stipulate that grant funds appropriated under statutes imposing the Davis-Bacon Act requirements shall not be paid to a grantee (the Department) until contractors or subcontractors performing work

under the grant certify that they will comply with the Act's requirements. The Act also applies to any contract or subcontract for similar work on public grants from a federal agency, or where the federal government acts as guarantors of mortgages. The only exception is for the transportation of materials and supplies by persons who are not employed directly at the work site, but are employed solely to make deliveries to the work site.

Provider Agencies must ensure that contracts or subcontracts for any construction/alteration projects contain the wage determinations issued and that the appropriate clauses required by the Davis-Bacon regulations (29 CFR, section 5.5) are present. It should be made clear in any announcements of projects or RFPs that federal grant funds are being used and that Davis-Bacon will apply even if the federal government is not a party to the contract or subcontract. The prevailing wage must be paid regardless of any contractual relationship that may exist between a contractor or a subcontractor. Although the Department is not responsible to review sub-contracts for compliance, it has the right to require a prevailing wage.

Sanctions for post-certification violations include suspension of payment, advances, or guarantees of grant funds, and the forced restitution of wages that should have been paid and the removal of offending contractors or subcontractors from active employment lists.

Failure to comply can bring penalties that can be severe. The contractor or subcontractor and their sureties are liable for any excess costs for completing the work; the Department may withhold accruals to ensure payment of prevailing wages to the workers; the contract or subcontract may be terminated and/or the contractor or subcontractor may be debarred for a period of three years.

16.32. A.R.S. Title 34 Provisions.

16.32.1. The maximum dollar amount of an individual job order shall be Three Million Dollars (\$3,000,000) or such higher or lower amount prescribed by the Owner in an action notice pursuant to A.R.S. title 38, chapter 3, article 3.1 or a rule adopted by the Owner as the maximum amount of an individual job order. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.

16.32.2. If the Job Order Contractor subcontracts or intends to subcontract part or all of the work under a job order and if this contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order, then:

16.32.2.1. The Job Order Contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the Job Order Contractor to do all or part of the work under one or more job orders:

16.32.2.1.1. A copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid.

16.32.2.1.2. A copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.

16.32.2.2. If not previously delivered to the subcontractor, the Job Order Contractor has a duty to deliver promptly the following to each subcontractor invited to or that has agreed to do any of the work included in any job order:

16.32.2.2.1. A copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform.

16.32.2.2.2. The number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform.

16.32.2.2.3. The standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.

16.32.3. The Owner will include the full street or physical address of each separate location at which the construction will be performed for each individual Job Order. The Job Order Contractor (and on behalf of each

subcontractor at any level) hereby agrees to include in each of its subcontracts the same address information. The Job Order Contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

16.33 Prohibited Lobbying Activities. The Offeror, his/her agent or representative shall not contact, orally or in any written form any City elected official or any City employee other than the Materials Management Division, the procuring department, City Manager, Deputy City Manager or City Attorney's office (for legal issues only) regarding the contents of this solicitation or the solicitation process commencing from receipt of a copy of this request for proposals and ending upon submission of a staff report for placement on a City Council agenda. The Materials Manager shall disqualify an Offeror's proposal for violation of this provision. This provision shall not prohibit an Offeror from petitioning an elected official after submission of a staff report for placement on a City Council agenda or engaging in any other protected first amendment activity after submission of a staff report for placement on a City Council agenda.

16.34 Prohibited Political Contributions. Consultant during the term of this Agreement shall not make a contribution reportable under Title 16, Chapter 6, Article 1, Arizona Revised Statutes to a candidate or candidate committee for any city elective office during the term of this Agreement. The City reserves the right to terminate the Agreement without penalty for any violation of this provision.

16.35 Assurances of Compliance with Federal and State Laws. If any single job order project is funded with federal grant funds, the Contractor shall be responsibility to incorporate any necessary amounts in the job quote to accommodate for required federal record keeping and necessary pay structures. The Contractor should contact the City of Peoria regarding any applicable Davis Bacon wage rates. During the performance of work under this contract the Contractor and all Subcontractors will be required to certify compliance with the following federal provisions:

A. Equal Employment Opportunity. Comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The Contractor will consider each applicant for employment on the basis of his or her qualifications for the job and without regard to race, color, religion, gender, marital status, age, or national origin. Nor will the Contractor discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified.

Every effort will be made to insure that appointments, promotions, reclassifications, transfers, compensation, training, layoffs, terminations or any other type of personnel actions are based on merit, fitness or other factors determined to be free of discrimination. Such action shall include, but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. The Contractor further agrees that this clause will be incorporated in all subcontracts or job-consultant Contracts related to this Contract." The County, State and the Agency are beneficiaries of this Section and are entitled to enforce it. The Contractor shall also comply with all applicable local, state and federal fair employment laws and regulations.

B. Davis-Bacon Act, as amended (40 U.S.C. § 276a to a-7). When required by Federal program legislation, for all construction contracts of more than \$2,000, comply with the Davis-Bacon Act (40 U.S.C. §§ 276a to a-7) and as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors are required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week. The Owner must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract will be conditioned upon the acceptance of the wage determination. The Owner must report all suspected or reported violations to the County, State, City of Peoria and the Granting Agency.

C. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). For Contractors who apply or bid for an award of \$100,000 or more, 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 recipient.

D. Anti-Lobbying Certification. The Contractor certifies, to the best of his or her knowledge and belief that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.
- 4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

E. Debarment and Suspension (E.O. 12549 and E.O. 12689). Provide the required certificates regarding their exclusion status and that of their principal employees. No contract may be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O. 12549 and E.O. 12689, "Debarment and Suspension," as set forth in 24

C.F.R. Part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and Contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold may provide the required certification regarding their exclusion status and that of their principal employees.

F. Drug-Free Workplace Requirements. Comply with the Drug-Free Workplace Act of 1988 (42 U.S.C. § 701) and certify that they will comply with drug-free workplace requirements in accordance with the Act.

This certification is a material representation upon which reliance is placed by the U.S. Federal Agency in awarding the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the U.S. Federal Agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

- 1) The Contractor certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Informing employees about:
 1. The dangers of drug abuse in the workplace;

2. The Contractor's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statue conviction for a violation occurring in the workplace no later than five days after such conviction;
- 2) Notifying U.S. Federal Agency within ten days after receiving notice under subparagraph (d)(2) from an employee of otherwise receiving actual notice of such conviction;
 - 3) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - a. Taking appropriate personnel action against such an employee, up to and including termination; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency;
 - 4) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), and (d).

G. Compliance with Federal and State Immigration Laws.

- 1) Contractor agrees to comply with the Immigration Reform and Control Act of 1986 (IRCA) in performance under this Agreement and to permit the City of Peoria or their agents to inspect personnel records to verify such compliance. Contractor shall ensure and keep appropriate records to demonstrate that all employees have a legal right to live and work in the United States.
- 2) Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to U.S. Federal Agency and the cities that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) ("Contractor Immigration Warranty").
- 3) A breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Contractor to penalties up to and including termination of this Agreement at the sole discretion of U.S. Federal Agency and/or the City of Peoria.
- 4) The U.S. Federal Agency and the City of Peoria retain the legal right to inspect the papers of any employee of Contractor or any subcontractor who works under this Agreement to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist U.S. Federal Agency and/or the City of Peoria in the conduct of any such inspections.
- 5) The U.S. Federal Agency or the City of Peoria may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractor to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the U.S. Federal Agency and/or the City of Peoria in performing any random verification performed.
- 6) Neither the Contractor nor any subcontractor shall be deemed to have materially breached the Contractor

Immigration Warranty if the Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214, Subsection A.

- 7) The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractor who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

H. Asbestos Abatement. The Contractor agrees to comply fully with the National Emission Standard for Hazardous Air Pollutants (NESHAP) asbestos regulation (Title 40 CFR, Part 61 Subpart M), the Maricopa County Air Pollution Control Regulations Rule 370, Section 301.8, and the Occupational Safety and Health Administration (OSHA) asbestos regulation (29 CFR 1926.1101 Asbestos).

I. Access To Records And Records Retention. The Contractor agrees as follows:

- 1) The Contractor agrees to permit the U.S. Federal Agency, the City of Peoria, U. S. Federal Agency, and the Office of the Inspector General and/or their designated representatives to have access to all any books, documents, papers and records of the Contractor or subcontractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts and transcriptions.
- 2) The Contractor agrees to retain all records for at least six years following the "Official Closeout" date of the grant or the resolution of all audit findings, payments and all other pending matters whichever is later.

J. Conflict Of Interest. The undersigned is fully aware that this contract is wholly or partially federally funded, and certifies that:

- 1) There is no substantial interest, as defined by Arizona Statutes, with any public official, employee, agency, commission, or committee with the City of Peoria and the U.S. Federal Agency.
- 2) Any substantial interest, as defined by Arizona Statutes, with any public official, employee, agency, commission, or committee (including members of their immediate family) with the City of Peoria or the U.S. Federal Agency that develops at any time during this contract will be immediately disclosed to the City of Peoria and the U.S. Federal Agency.
- 3) The Contractor agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Contractor hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City of Peoria, or of any designated public agencies or Contractors which are receiving funds under the CDBG Entitlement program.

K. Compliance with Civil Rights Act of 1964

During the performance of this contract, the contractor agrees to comply with the following:

(i) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. Sec. 2000d), (ii) the Rehabilitation Act of 1973 (Pub. L. 93-1123, 87 Stat. 355, 29 U.S.C. Sec. 794), (iii) the Age Discrimination Act of 1975 (Pub. L. 94-135 Sec. 303, 89 Stat. 713, 728, 42 U.S.C. Sec. 6102), (iv) Section 13 of the Federal Water Pollution Control Act (Pub. L. 92-500, 33 U.S.C. Sec. 1251), and subsequent regulations, ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap.

L. Termination for Convenience (43 CFR § 12.84)

Except as provided in §12.83 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §12.83 or paragraph (a) of this section.

M. Equal Employment Opportunity (41 CFR § 60-1.4)

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) the contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

N. Compliance with Copeland Act Requirements. The Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), 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 shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

- O. Contract Work Hours and Safety Standards Act.** Contractor shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall 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 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- P. Patent Rights (43 CFR Part 12).** Contractor shall comply with federal requirements (CFR 43, Part 12, Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- Q. Copyrights (43 CFR § 12.74).** The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use; for Federal Government purposes:
- (1) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- R. Audit Practices (43 CFR Part 12).** The contractor agrees 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.
- S. Retention of Records (43 CFR Part 12).** The contractor agrees to retain all required records for three years after grantees or sub-grantees make final payments and all other pending matters are closed.
- T. Clean Air Act, Clean Water Act, and EPA Regulations.** Consultant shall comply 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).
- U. Energy Policy and Conservation Act.** Consultant shall comply with all 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).
- V. System For Award Management Maintenance (48 CFR 52.204-13).** The Contractor is required to properly register and maintain an updated registration with the System for Award Management (SAM) database, which is the primary Government repository for prospective Federal awardee information and the centralized system for certain contracting, grants, and other assistance-related processes.

(a) Definition. As used in this clause--

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal Contractors.

"Data Universal Numbering System+4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional SAM

records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at subpart 32.11) for the same concern.

"Registered in the System for Award Management (SAM) database" means that—

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, the Contractor and government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into the SAM database;
- (2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;
- (3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and
- (4) The Government has marked the record "Active".

"System for Award Management (SAM)" means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

- (1) Data collected from prospective Federal awardees required for the conduct of business with the Government;
 - (2) Prospective contractor-submitted annual representations and certifications in accordance with FAR subpart 4.12; and
 - (3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.
- (b) The Contractor is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.
- (c)(1)(i) If a Contractor has legally changed its business name, doing business as name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to—
- (A) Change the name in the SAM database;
 - (B) Comply with the requirements of subpart 42.12 of the FAR; and
 - (C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support he legally changed name.
- (ii) If the Contractor fails to comply with the requirements of paragraph (c)(1)(i) of this clause, or fails to perform the agreement at paragraph (c)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.
- (2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of this contract.

(3) The Contractor shall ensure that the DUNS number is maintained with Dun & Bradstreet throughout the life of the contract. The Contractor shall communicate any change to the DUNS number to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the DUNS number does not necessarily require a novation be accomplished. Dun & Bradstreet may be contacted—

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the Contractor does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(d) Contractors may obtain additional information on registration and annual confirmation requirements at <https://www.acquisition.gov>.

W. Contract Work Hours and Safety Standards Act -- Overtime Compensation.

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) *Payrolls and basic records.*

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

ATTACHMENTS

- Attachment A JOC General Scope of Services
- Attachment B SIQ & Contractor's Response
- Attachment C JOC Cost Proposal Forms (Pricing Matrix, Project Cost Sheet)
- Attachment D Contractor's Contacts (Contact List & Authorized Signature Form)

ATTACHMENT A
JOC General Scope of Services

1.0 GENERAL INFORMATION

1.1 This is a fixed price, indefinite quantity type Contract for the performance of various Parks Trail, and Landscaping Construction on an as-needed basis as may be required by Owner. The specific work requirements will be identified in Job Orders to be issued by Owner.

1.2 Depending on what is required by the Individual Job Order Agreement, the type of Contract will be either "Lump Sum Fixed Price" or "Guaranteed Maximum Price (with savings returned to owner)".

2.0 DOCUMENTS

2.1 The currently applicable pricing structure contains pricing information for the Work to be accomplished in the pricing matrix specified. The Pricing matrix can only be updated at time of yearly contract renewal by mutually agreeable change order. Previously issued Job Orders and changes will not be retroactively re-priced although any changes priced after receipt of an update will be priced by the updated version of the new pricing matrix.

2.2 The construction specifications in effect at Contract signing, and provided to the Job Order Contractor, shall be the specifications under this Contract.

3.0 WORK AUTHORIZATION

Any Work required under this Contract shall be authorized by issuance of formal, written Job Orders, as follows:

3.1 As the need exists (as determined by Owner) for performance under the terms of this Contract, Owner will notify Job Order Contractor of an existing requirement.

3.2 Upon the receipt of this notification, Job Order Contractor shall respond within two (2) working days, or as otherwise agreed, by:

3.2.1 Visiting the proposed site in the company of Owner, or;

3.2.2 Establishing contact with Owner to further define the scope of the requirement.

3.3 After mutual agreement on the scope of the individual requirement, Job Order Contractor shall then prepare a proposal for accomplishment of the task unless Job Order Contractor, in its sole discretion, elects not to undertake the Work. If the Work is declined, Job Order Contractor will so notify Owner in a timely manner.

3.4 The price matrix shall serve as the basis for establishing the value of the Work to be performed.

3.5 Job Order Contractor's proposal shall be submitted within ten (10) working days unless otherwise agreed.

3.6 Upon receipt of Job Order Contractor's proposal, Owner will review the proposal for completeness and will reach agreement with Job Order Contractor on pricing, schedule, and all other terms, prior to issuance of a Job Order.

3.7 In the event Owner does not issue a Job Order after receipt of Job Order Contractor's proposal, Owner is not obligated to reimburse Job Order Contractor for any costs incurred in the preparation of the proposal, except as noted in § 4.3.

4.0 SCHEDULING OF WORK

4.1 For each Job Order, Owner will issue a Notice to Proceed. The first day of performance under a Job Order shall be the effective date specified in the Notice to Proceed. Any preliminary work started or material ordered or

purchased before receipt of the Notice to Proceed shall be at the risk and expense of Job Order Contractor. Job Order Contractor shall diligently prosecute the Work to completion within the time set forth in the Job Order. The period of performance includes allowance for mobilization, holidays, weekend days, normal inclement weather, and cleanup. Therefore, claims for delay based on these elements will not be allowed. When Job Order Contractor considers the Work complete and ready for its intended use, Job Order Contractor shall request Owner to inspect the Work to determine the status of completion. When Owner determines the Work to be Punch List Prepared as defined in Article 1, Owner will provide Contractor with a list of items to be completed or corrected prior to final payment for the Job Order. Job Order Contractor shall proceed promptly to complete and correct items on the list.

4.2 Job placement of materials and equipment shall be made with a minimum of interference to Owner operations and personnel.

4.3 Furniture and portable office equipment in the immediate work area will be moved by Job Order Contractor and replaced to its original location. If the furniture and portable office equipment cannot be replaced to its original location, Owner will designate new locations. If furniture and portable office equipment (or other items) must be moved and/or stored outside the immediate area, Owner will compensate Job Order Contractor for any such transportation and storage costs incurred.

4.4 Job Order Contractor shall take all precautions to ensure that no damage will result from its operations to private or public property. All damages shall be repaired or replaced by Job Order Contractor at no cost to Owner.

4.5 Job Order Contractor shall be responsible for providing all necessary traffic control, such as street blockages, traffic cones, flagmen, etc., as required for each Job Order. Proposed traffic control methods shall be submitted to Owner for approval.

5.0 QUALITY ASSURANCE/QUALITY CONTROL PROGRAM

5.1 Job Order Contractor shall submit, for Owner approval, a Quality Assurance/Quality Control Plan within fifteen (15) calendar days after issuance of the initial Job Order. This plan should address all aspects of quality control including responsibility for surveillance of work, documentation, trend analysis, corrective action and interface with Owner's inspectors.

6.0 DESIGN

6.1 In accordance with the provisions of ARS § 34-602 & 603, the City may require the Job Order Contractor to contract with one or more Design Professionals to provide architectural or engineering design of the Project.

6.2 As an alternative to § 6.1, and in accordance with the provisions of ARS § 34-602 & 603, the City may elect to contract separately with one or more Design Professionals to provide architectural or engineering design of the Project.

6.3 Whether the City or the Job Order contractor contracts with the Design Professional, it is expected that some or all of the following services will be provided during the performance of the work:

6.3.1 The Design Professional will provide administration of the work. The City and the Contractor will endeavor to communicate through the Design Professional. Communications by and with the Design Professionals' consultants will be through the Design Professional.

6.3.2 The Design Professional will visit the Site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed work and to determine in general if the work is being performed in accordance with the contract documents. The Design Professional will keep the City informed of progress of the work and will endeavor to guard the City against defects and deficiencies in the work.

6.3.3 Upon the Job Order Contractor's submittals, the Design professional will review and approve or take other appropriate action on submittals as Shop Drawings, Product Data, and Samples.

6.3.4 All drawings produced for projects under this contract are the property of the City, and are owned in whole by the City for any and all future use and considerations.

7.0 PROJECT AS-BUILTS

7.1 An individual Job Order's scale, complexity, and proximity to agency rights-of-way will determine the specific as-built requirements for each individual job order project. Unless otherwise determined at the time of the job order award that project as-builts will not be required, the Job Order Contractor shall assume that they must satisfy the as-built requirements of both the City of Peoria as the permitting agency and the City of Peoria as the project owner. For river trail and trailhead projects, additional as-built requirements may be imposed by the Flood Control District of Maricopa County and the Arizona Department of Transportation.

7.2 To satisfy the requirements of the City of Peoria as the permitting agency, the Job Order Contractor shall retain the services of an Arizona Registered Land Surveyor to as-built the constructed condition of all grading, drainage, hardscape, and underground utility civil improvements. The Job Order Contractor will be required to meet the requirements of Chapter 7 of the City of Peoria Infrastructure Development Design Guidelines and shall make the required submissions to the permitting agency sufficiently in advance of Final Completion.

7.3 To satisfy the requirements of the City of Peoria as the owner, the Job Order Contractor shall prepare industry standard redline as-built drawings on a clean print of the construction documents or relevant shop drawing. The Job Order Contractor shall neatly mark and post to these drawings any clarification or scope changing documents issued by the design professional and shall neatly mark the drawings to indicate variances from the designed condition. The Job Order Contractor shall submit the as-built documents to the job order project manager for review, correction, and approval sufficiently in advance of Final Completion.

8.0 UTILITY COMPANY COORDINATION

8.1 Unless specifically excluded by the Individual Job Order Agreement, the Job Order Contractor will be responsible for coordinating with utility design work for permanent service to the project and will ensure that the work takes place in a timely manner and does not impact the project schedule. Any utility design fees for permanent services to a project will be paid by the City.

9.0 TEMPORARY SANITATION FACILITIES

9.1 The Contractor shall provide ample toilet facilities with proper enclosures for the use of workmen employed on the work site. Toilet facilities shall be installed and maintained in conformity with all applicable state and local laws, codes, regulations and ordinances. They shall be properly lit and ventilated, and kept clean at all times.

9.2 Adequate and satisfactory drinking water shall be provided at all times and under no circumstances and under no conditions will the use of common cups be permitted. The Contractor must supply sanitary drinking cups for the benefit of all employees.

10.0 DUST CONTROL AND WATER

10.1 The dust control measures shall be in accordance with the requirements of the "*Maricopa County Health Department Air Pollution Control Regulations*," namely Regulation II, Rule 21, subparagraph C and Regulation III, Rule 310 shall be rigidly observed and enforced. Water or other approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earthwork to prevent unnecessary discharge of dust and dirt into the air. The Contractor shall be responsible for compliance with these regulations. A Notice to Proceed will not be issued until the City of Peoria has received a copy of the Contractor's Dust Control Permit and Plan.

10.2 The Contractor shall be required to obtain the necessary permit and all pertinent information from the Maricopa County Air Pollution Control Bureau, 2406 S. 24th Street #E-214, Phoenix, Arizona, (602) 506-6700 extension 372.

10.3 The Contractor shall keep suitable equipment on hand at the job site for maintaining dust control on the project streets, and shall employ sufficient labor, materials and equipment for that purpose at all times during the project to the satisfaction of the City Engineer.

10.4 Watering shall conform to the provisions of Section 225 of the MAG Standard Specifications. The cost of watering will be included in the price bid for the construction operation to which such watering is incidental or appurtenant.

10.5 Installation and removal of fire hydrant meters should be scheduled at least forty-eight (48) hours in advance through the City of Peoria Utilities Division at (623) 773-7160. A \$1,000 deposit is required for each meter. An additional \$28.00 service fee is also required. The cost of the water is at the prevailing rate.

11.0 ELECTRICITY

11.1 Except for remote locations or unless otherwise specified in a Job Order, Owner shall furnish to Job Order Contractor from existing Owner facilities and without cost to Job Order Contractor, electricity necessary for the performance of work under this Contract. It is the responsibility of Job Order Contractor to determine the extent to which existing Owner electrical facilities are adequate for the needs of this Contract.

11.2 Upon completion of this Contract the removal of all taps, connections and accessories will be accomplished by and at the expense of Job Order Contractor, and costs included in the Job Order Proposal, so as to leave the electrical power source and facility in its original condition. Such removal shall also be subject to the approval of Owner.

12.0 WORK BY OWNER

Owner reserves the right to undertake or award Contracts for the performance of the same or similar type work contemplated herein, and to do so will not breach or otherwise violate the Contract.

ATTACHMENT B

SIQ & Contractor's Response

(See Attached)



SIGN-IN SHEET

Solicitation Number: P19-0018

Materials Management
Procurement
9875 N. 85th Avenue
Peoria, Arizona 85345-6560
Phone: (623) 773-7115
Fax: (623) 773-7118

Date: 10-29-2018

Time: 2:00 PM

Re: Park, Trail and Landscape
Construction / Pre-Bid

Location: Point of View Conf Room (1st Floor) Buyer Drew Ashmun

PLEASE PRINT

Name	Company	Telephone	E-Mail Address
JASON KAHN	RUMMEL	602 689 6667	JASON@RUMMELCONSTRUCTION.COM
Dig Karki	Hunter CONTRACTING CO.	(480) 632-4926	Digk@huntercontracting.com
Dave Holliefeld	Hunter Contracting	602.359.1752	davidh@huntercontracting.com
Alyssa Alllyn	SNP Contracting	623 544 7305	marketing@snpcontracting.com
CHASE GIBSON	STANDARD CONSTRUCTION	623-604-3031	estimating@standardc.com
JARROD HEANS	FORESITE	480 920 1345	Jarrold.Heans@foresite-inc.com
JEFF GREEN	DIAMOND RIDGE	623-412-8809	Jgreen@diamondridge.biz



STATEMENT OF QUALIFICATIONS

Solicitation Number: P19-0018

Materials Management Procurement

9875 N. 85th Ave., 2nd Fl.
Peoria, Arizona 85345-6560
Phone: (623) 773-7115
Fax: (623) 773-7118

REQUEST FOR STATEMENT OF QUALIFICATIONS (SOQ)

JOB ORDER CONTRACTING

FOR

Park, Trail and Landscape Construction

SOLICITATION NUMBER: P19-0018

Due Date:

November 12, 2018 by 5:00 PM Arizona Time

Pre-Submittal Meeting:

October 29, 2018 @ 2:00 PM Arizona Time

Point of Contact:

Drew Ashmun

Contract Officer

drew.ashmun@peoriaaz.gov

623-773-7115



STATEMENT OF QUALIFICATIONS

Materials Management Procurement

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Solicitation Number: **P19-0018**

SECTION 1 – INTRODUCTION

1.1 Introduction

The City of Peoria Arizona is seeking experienced licensed contractors for park, trail, and landscape construction projects of varying sizes and complexities on an as-needed basis at various project locations throughout the City of Peoria utilizing Job Order Contracting (JOC) project delivery method.

It is the intent of the City of Peoria to select two (2) contractors for contract award, one of which may be specifically skilled at smaller projects (less than \$1M). The initial term of the JOC will be for a minimum of one (1) year and may be renewed up to four (4) additional one-year terms. Renewal of the contract will be based on the successful performance of the JOC Contractor and the needs of the City. The individual job order maximum amount is \$3,000,000. Pricing shall be negotiated fee.

During the term of the JOC, work is performed as a series of individual job orders. Individual projects may require the expenditure approval of Peoria City Council. Each job order, initiated by the owner, is defined cooperatively by the owner and contractor. A scope, schedule and price are negotiated and agreed upon. Then the contractor is directed to proceed with the work. Job Order Contractors will be expected to deliver turn-key projects which may include ancillary design, pre-construction services, permit management, construction work (bid & self-performed), and the preparation of project close-out documents.

1.2 Cooperative Purchasing

Any contract resulting from this solicitation shall be for the use of the City of Peoria. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any resultant contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on any resultant contract; the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement. Any orders placed to the successful contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

1.3 Project Budget

The City of Peoria CIP identifies funding for projects in fiscal year of 2019 and shows planned projects for the next ten (10) years. A copy of the CIP can be viewed at <https://www.peoriaaz.gov/government/departments/management-and-budget>. The approved FY2019 budget is available to fund various projects utilizing the awarded JOC contract.



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Projects may extend into the next fiscal year and beyond but in no instance will any one project under this JOC exceed \$3,000,000.

SECTION 2 – PROJECT DESCRIPTION & SCOPE OF WORK

2.1 Description

This Job Order Contract is issued to assist the City of Peoria with the design (as necessary), permitting, construction and/or rehabilitation of municipal parks, river corridor trails, landscape and hardscape within municipal parcels and public right-of-way, and related projects (examples including, but not strictly limited to: landscaped drainage facilities, river corridor mitigation sites, trailheads, park restroom and shade canopy structures, athletic field (re)construction, and reclaim irrigation water distribution). Interested contractors must have the ability to show related experience and a proven track record in delivering successful projects of the same nature and magnitude. The selected contractors will be expected to provide experienced project management to manage projects from the project's initial inception and scoping through regulatory approvals, construction, and project close-out.

The City of Peoria has elected to use the JOC delivery method for these projects as outlined under A.R.S. Title 34. Cost effective construction in the shortest possible time frame and within the City's tolerance of financial risk will be the guiding principles behind the projects.

2.2 Scope of Work

Interested contractors must possess experience in the following areas:

Permit Management: The attainment of permits from any and all jurisdictions which the project may require, including but not limited to the City of Peoria, Maricopa County, Maricopa County Flood Control District, Arizona Department of Transportation, State Historic Preservation Office (SHPO), and the US Army Corp of Engineers.

Construction: The physical construction of the work, through competitive subcontractor selection/bidding and/or self-performance as dictated by the unique needs of each individual project.

Cost Proposals: Upon the request of the owner, project cost proposals may be submitted either as a lump sum or as a Guaranteed Maximum Price (GMP). GMP cost proposals shall be "open book" with full transparency provided to the Owner and any project allowance savings will be returned to the Owner at the end of the project.

Federal Compliance: Where federal monies are utilized, the scope shall include prevailing wage compliance as per the Davis Bacon Act and submission of weekly certified payroll. The City of Peoria will notify the contractor if federal grants are utilized.

Project Close-Out: The preparation, maintenance, or modification of the Owner's project



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close-out documentation including, but not limited to: RLS certified survey as-builts, CAD updates to as-built documents, operations and maintenance manuals, warranty manuals, turnover of certified payroll documentation (federal projects only), City, County, State, or Federal agency special close-out requirements, and maintenance personnel training (if applicable).

Depending on the scale of the projects under this JOC, experience in the following areas may also apply:

Professional Services: The contracting of professional design services from licensed Arizona professionals of one or more of the following disciplines typically associated with park, trail, or park facilities construction: geotechnical, land survey, environmental, civil, landscape, architecture, structural, plumbing, mechanical, electrical, fire protection, and fire alarm. When the professional services are not provided by the Owner, the Contractor may be required to possess Professional Liability Insurance. The single project limit of \$3,000,000 shall be inclusive of professional services fees when acquired under this JOC agreement.

Preconstruction Services: The management of design consultants (when included under the JOC), public engagement, construction cost estimating, constructability review, and value engineering as required to achieve the City's project budget.

2.3 General Information

The successful JOC contractors will have documented established successful work relationships with various qualified subcontractors, engineering professionals, and a basic knowledge of JOC project delivery methods. The specific work associated with each job order shall be mutually agreed upon and issued by the City.

For any project determined by the City to be appropriate for this Job Order Contract, the City will request that the contractor prepare a scope of work, cost proposal, project schedule and back-up supporting documentation. If acceptable, the City will issue a Job Order, at which time the parties will execute an individual job order specifying the cost and completion schedule for that project. Although the City anticipates that the JOC Contractor will be issued work, the Contractor is neither guaranteed a minimum amount of work nor any jobs at all. The City reserves the right and will issue job orders based on ability of the contractor to meet the City's work schedule and the availability of trades and expertise in relation to each project.

All construction shall conform to the latest version of the Uniform Standard Specifications and Details for Public Works Construction published by the Maricopa Association of Governments (MAG) together with the City of Peoria Development Infrastructure Guidelines, Specifications and City of Peoria Supplemental to MAG Uniform Standard Details, and the construction documents (plans and specifications) associated with each Job Order.



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SECTION 3 - STATEMENT OF QUALIFICATIONS

3.1 SOQ Format: The JOC contractors will be selected through a qualifications-based selection process based on the evaluation criteria outlined herein. The contractors selected will be the contractors whose SOQ's are responsive, responsible, and are the most advantageous to City, as determined by City in its sole discretion. The City reserves the right to add, delete, or modify any part of this solicitation at City's sole discretion.

Interested Contractors must submit a Statement of Qualifications (SOQ) that addresses the points as outlined.

SOQ's should be assembled in the relative order as outlined below:

A. Method of Approach to Performing the Required Services

1. Describe your company's experience and approach to scoping and estimating potential job order projects. What efforts would your company initiate to achieve the project budget and schedule during the negotiation process.
2. Describe how your company will manage a diverse program of job order projects initiated by multiple departments, each with differing levels of owner engagement and/or project management, and all with important deadlines.
3. Describe your company's approach to managing, and illustrating the project's schedule, from project inception through design (if required), permitting, construction, and close-out. Who will specifically prepare and update the schedule?
4. Discuss the key components and advantages of your company's selection process for subcontractors. Demonstrate your understanding of the City's requirement that subcontractor selection must be based on qualifications alone or a combination of qualifications and price, not on price alone. Provide a detailed proposed Subcontractor Selection Plan attached as an Appendix.
5. Discuss your company's intentions regarding self-performance for each Job Order and indicate the average percentage (%) of self-performance for the projects your company has completed or are currently underway in 2017 and 2018.

Local Experience & Qualifications of the Contractor

1. List the Arizona professional and contractor license(s) held by your company. Provide the license number and explain if held by an individual or the company.
2. Describe any unique or specialty skills, services or equipment that your company possesses that you believe add value to a project and may differentiate your company from another.



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3. Describe the scale and complexity of the projects routinely undertaken by your company.
4. Describe how your company manages its resources between projects for different municipal clients. Identify how personnel assignments are determined.
5. Identify the number of active job order contracting agreements your company is currently providing services under (including any City of Peoria agreements). Identify the agency name, minimum and maximum project size, and identify the total quantity (#) and median project value (\$) for the projects your company has completed or are currently underway in 2017 and 2018. The City may take into consideration the number of Job Order Contracts a company may have, the resource investment of the contractor in current City work, and the amount of previous work recently performed for the City as part of the selection process.

Qualifications & Experience of Key Personnel

1. Identify and list the qualifications and experience of the key people who will be responsible for performing the work under the resulting contract.
 - a. Provide a matrix of project information for up to 5 key personnel expected to be assigned to this JOC where the Contractor provided construction services similar to those listed in Section 2 – Scope of Work.
 - b. Include in the personnel / project matrix any specific staff experience in partnering, quality control, project scheduling, claims, dispute resolution, changes in the scope of work, construction safety, value engineering, and balancing workloads.

SECTION 4 - SUBMITTAL REQUIREMENTS

4.1 Submittal Information

- Submit one (1) original and six (6) copies of your SOQ.
- Include a 1-page cover letter prepared on the company's letterhead, with the name and contact information of the firm's lead person for the SOQ, and signed by an individual authorized to sign on behalf of the company.
- SOQ's shall be on 8 ½ x 11" paper, text on one side only with the total page count not more than ten (10) pages.
- Adherence to the maximum page criterion is critical and each page with criteria information will be counted.
- Pages that have project photos, charts, and graphs will count toward the maximum number of pages.



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- The company's responses to the SOQ criteria, as outlined in Section 3.1 above.
- Provide a list of three (3) references from current clients or clients whom you have performed work within the past five (5) years.

4.2 Appendix

Appendix shall contain the following and will not count against the total page count:

- Subcontractor Selection Plan (1 page).
- Scanned copies of the Arizona Registrar of Contractors License Identification Card(s). Multiple ID cards may be placed on the same page.
- Statement of bonding capacity from an A- or better Surety Company, including the maximum amount for a single project and aggregate project amount.
- Provide a statement identifying any contract or subcontract held by the Contractor or officers of the company, which has been terminated within the last five (5) years for cause.
- Identify any claims arising from a contract owner, which resulted in litigation or arbitration within the last five (5) years. Briefly describe the circumstances and the outcomes.

4.2 Pre-Submittal Meeting: A pre-submittal meeting will be held at the following place and time:

ADDRESS: 9875 N. 85th Ave
Peoria, Arizona 85345
Point of View Conference Room

DATE: October 29, 2018

TIME: 2:00 PM, Arizona Time

All interested parties are urged to attend the pre-submittal Conference. Since the City staff will not be available to respond to individual inquiries regarding the project scope outside of this pre-submittal meeting, it is strongly recommended that interested firms send a representative. The pre-submittal meeting is not mandatory.

SECTION 5 - SELECTION PROCESS AND EVALUATION CRITERIA

5.1 Evaluation Process

A Selection Panel will evaluate each Statement of Qualifications (SOQ) according to the evaluation criteria in order to determine a shortlist of 3-5 contractors for the interview phase of the selection process.



STATEMENT OF QUALIFICATIONS

Materials Management Procurement

9875 N. 85th Ave., 2nd Fl.
Peoria, Arizona 85345-6560
Phone: (623) 773-7115
Fax: (623) 773-7118

Solicitation Number: P19-0018

5.2 Evaluation Criteria

A. Statement of Qualifications

- | | |
|--|------------|
| 1. Method of Approach | 300 points |
| 2. Experience & Qualifications of the Contractor | 300 points |
| 3. Qualifications & Experience of Key Personnel | 300 points |
| 4. Conformance to SOQ | 100 points |

B. Interviews

- | | |
|--------------------------|------------|
| 1. Presentation | 500 points |
| 2. Response to Questions | 500 points |

The shortlisted contractors may be invited to participate in interviews. The interview criteria alone will be used in determining order on a final list. However, the City reserves the right to select contractor(s) based on the SOQ submittals only and not to proceed to interviews.

At the conclusion of the selection process, each of the rated elements for each contractor will be evaluated to determine the best qualified contractors.

5.3 Critical Dates

The following schedule has been prepared for this selection process:

Pre-Proposal Meeting	October 29, 2018
Submittals Due	November 12, 2018
Notification of Interviews	December 3, 2018
Interviews (shortlist only)	December 19, 2018 (Tentative)
Contractor Notification	January 7, 2019

Until the award and execution of the JOC contract, the City will only release the name of each company placed on the final list. All other information received by the City in response to the SOQ or contained in the proposals will be confidential to avoid disclosure of the contents that may be prejudicial to the competing offeror(s) during the selection process. The proposals of the selected offeror(s) will be open to the public inspection after the Contract(s) are awarded and the City has executed the contract(s) with the selected offeror(s).

SECTION 6 – GENERAL INFORMATION

6.1 General Information

- Instructions: The City of Peoria shall not be held responsible for any oral instructions. Any changes to this SOQ shall be in the form of a published addendum.



STATEMENT OF QUALIFICATIONS

Solicitation Number: P19-0018

Materials Management Procurement

9875 N. 85th Ave., 2nd Fl.
Peoria, Arizona 85345-6560
Phone: (623) 773-7115
Fax: (623) 773-7118

- Contact: Contact with City of Peoria staff, elected or appointed officials, or selection committee members concerning this SOQ, at any time, in any venue, is strictly prohibited, except as described in section 6.3 below, and may be grounds for disqualification.
- Costs: The City of Peoria will not be responsible for any costs incurred by any contractor submitting an SOQ or responding to this notice. The City reserves the right to waive any irregularities in any submittal and to reject all submittals and re-advertise or cancel the project in its entirety, at its sole discretion. The City reserves the right to request clarification or additional information.
- Material: All materials submitted in response to this solicitation become the property of the City, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right.
- Compliance: The selected contractor will be required to comply with the “Legal Arizona Workers Act.”
- Federal Funds: The selected contractor will be required to comply with all associated Federal Compliance Regulations for any federally funded projects that may be done under this JOC contract.
- Protest Policy & Procedures: The City of Peoria Protest Policy and Procedures are contained within the City of Peoria Procurement Code, Chapter 26 - Administration, Section 26-121 which is available online at <https://www.peoriaaz.gov/government/city-law/city-code>. The specific protest procedures are contained in the Materials Management “Procurement Guidelines” and can be accessed at <https://www.peoriaaz.gov/government/departments/finance/materials-management>.

6.3 Questions

- All questions regarding this SOQ must be submitted in writing by emailing:
Drew Ashmun, Contract Officer
City of Peoria Materials Management
drew.ashmun@peoriaaz.gov
- Inquiries within 48 hours preceding the due date & time will not be addressed.



November 13, 2018

City of Peoria
Materials and Management Procurement
9875 North 85th Avenue
Peoria, Arizona 85345

RE: STATEMENT OF QUALIFICATIONS
Park, Trail and Landscape Construction, Project No. P19-0018

ATTN: Mr. Drew Ashmun, Contract Officer

Dear Mr. Ashmun and Selection Committee Members:

It has been our distinct pleasure to have served the City of Peoria as a construction partner for over 2 decades. Our services have included park, trailhead and municipal property (ROW) improvements and have included construction services on all of your larger community parks. Since 2013 we have served effectively as a Park, Trail and Landscape JOC provider on 32 Job Order projects for Peoria. Just yesterday, the *Veterans Memorial at Rio Vista Park* project was honored by *ENR Southwest Magazine* as a Regional Best Project in the Landscape/Urban Development Category. The project was selected from contestants in 3 states and is evidence of the quality and value provided by Valley Rain.

We describe our services with 4 core values:

- V**alue that provides effective design and construction solutions for our clients,
- R**elationships that last beyond projects and teams
- Q**uality on every project that exceeds expectations,
- S**afety for our workers and the public

Valley Rain has been providing landscape, trailhead and ROW construction for 42 years (29 years as a full service General Contractor.) Our company is unique in that it specializes in these exact trades with an emphasis in self-performed concrete and landscape work. Because of this our specialized team offers more design and construction experience that is directly relevant to landscape, trailheads and parks.

Valley Rain's mission is to increase the quality of life in our local community by the integration of natural environments with aesthetically constructed outdoor facilities that provide healthy and enjoyable public places. We achieve this through collaboration with governmental and design partners, adding value to every project.

It would be our privilege to continue as a construction partner for the City of Peoria through this JOC.

Sincerely,
VALLEY RAIN CONSTRUCTION CORPORATION

Daniel K. Kuwitzky
VP Construction
602-725-2264 cell
dan@valleyrain.com



A.1 METHOD OF APPROACH

A.1.1 Scope, Estimate, Budget & Schedule

Experienced Park and Trail JOC Contractor:

Valley Rain offers 12 years of continuous Park and Trail JOC work for local municipalities. With 6 continuing municipal clients, we have established routine procedures for scoping and estimating JOC projects. Our team receives calls, scopes, estimates, contracts and builds an average of 30 Job Orders per year for an average volume of \$17,000,000- all parks, trailheads or municipal property improvements. This is a steady volume and we do not anticipate major changes in the next 5 years.

Please refer to our JOC summaries on page 10 and our JOC project types on page 4.

Valley Rain's municipal partners can be assured that each project will be managed with care and attention to detail.

Scoping & Estimating Potential Job Orders

WHAT?

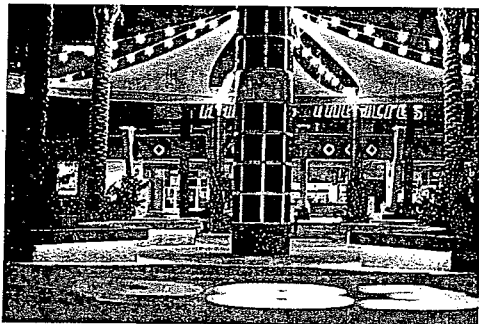
Scoping: Our goal is to determine the need and to suggest effective solutions. We do not merely price the requested work, but are known for creating solutions that will give the best value to the client. There could be a variety of potential responses based on budget, time or life cycle of the facility. Scoping is an area where the specialized experience of Valley Rain will provide a dramatic increase in value. Often, the decision of what to do will have the greatest effect on the success of the project.

HOW MUCH?

Estimating: We offer conceptual estimates (rough-order-of-magnitude, "ROM") for planning and feasibility. This will also affect the final determination of what to do (Scope).

WHEN?

Scheduling includes a discussion of the project timetable compared with milestone schedules that include design, permitting and estimating time. In busy times, resource availability will be openly discussed and evaluated. Later, a full Critical Path Schedule for complex projects will guide the process.



VR JOC PROCESS

PRE-CONSTRUCTION PLANNING

- Rough Order of Magnitude (ROM) estimates for budgeting and planning
- Tracking the project pipeline and design development
- Conceptual Dates

RFQ AND SCOPING

- Meet with the client to evaluate project needs and to develop a scope
- Select Design Team, if required
- Site investigation to determine constraints, could include GPS data collection
- Set proposal turn around time

PRICE DEVELOPMENT & PROPOSAL

- Detailed take-offs and bidding using B2W estimating software
- Trade Scope definition to eliminate gaps
- Competitive Sub bidding and analysis of prequalified subcontractors
- Assumptions and clarifications report to clarify scope and to create discussion points
- Detailed line item proposal

SCHEDULING

- CPM schedule includes design and permitting tasks
- 3 week look ahead schedules for site coordination
- Regular update to communicate project status

SUBCONTRACTING

- Subcontractor verification
- Subcontract agreements and control documents

PRE-CONSTRUCTION QC/SUBMITTALS

- Task Quality Control Plan
- Submittal, approvals, and tracking register

CONSTRUCTION

- Weekly Coordination Meetings (if needed)
- Weekly Minutes with updates and action assignments

CLOSEOUT

- Close-out Documents
 - » Warranty letters and contact information
 - » Standard Closeout Inspection Checklist

WARRANTY

- Fast response from assigned PM

A.1.2 Program Management

JOC PROGRAM MANAGEMENT

First Call, One Contact: Dan Kuwitzky will serve as the JOC Program Manager and will field all requests for new work. Dan has a unique viewpoint at Valley Rain and is currently serving as VP of Construction for Valley Rain and also in a part time capacity as Design-Build Manager for Peoria's Paloma Park. He will be able to quickly evaluate the need and make staff assignments (Project Managers and Superintendents) that can respond quickly to your needs. Also, take a look at our staff selection process in Section A2.4 on page 7.

OBJECTIVE

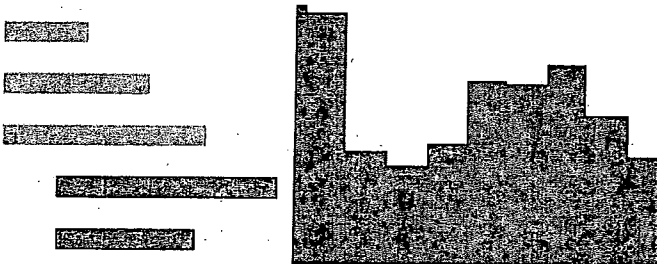
The objective will be to offer effective solutions to the stated need.

Things to Consider:

- Unique project requirements
- Size and Complexity
- Duration and Schedule

STEPS

- Assign a PM and Supervision Team
- Monitor the Solutions proposed for effectiveness
- Forecast and Monitor Resource Availability
- Technical Assistance in Design, Engineering, Survey, Software, Support



TOOLS WE USE

- **The Master Schedule:** Valley Rain tracks all projects of every size on a Master Schedule. We meet weekly to review the project status and major milestones for progress and completion. This is a time to balance workloads or to give a special boost to a project in need.
- **The Labor Histogram:** We project all work for 24 months to monitor available manpower, supervision vs. the projected needs. This also gives us information on the selection of subcontractors to balance and complete the workload.
- **Project Management Software (Procore):**
 - » Daily reporting of progress and manpower
 - » Bird's Eye view of preparatory requirements
 - » Daily photo documentation and reporting. Our daily photo and daily log notes provide a concise report to Valley Rain managers. This gives us the ability to monitor a large volume of detail in a short period of time. Issues surface quickly and resources are assigned for solutions.
 - » Quality Control Planning and Documentation
 - » Safety Planning, Training, and Documentation
- **Estimating Software by B2W and Pantera:**
 - » Cloud Based Plan Sharing and Bid Calendar
 - » Assignments made for Lead Estimator, taking ownership of each project. This is a support role to the PM.

A.1.3 Scheduling

1 The Milestone Schedule:

The assigned Project Manager will establish key dates for design, permitting, procurement, construction and delivery. This document plans the start and completion of the Job Order and sets realistic milestone dates as interim goals for the project. This also works well for design and permitting tasks.

Updating: Updates are sent as key milestones are achieved.

2 The Critical Path Schedule:

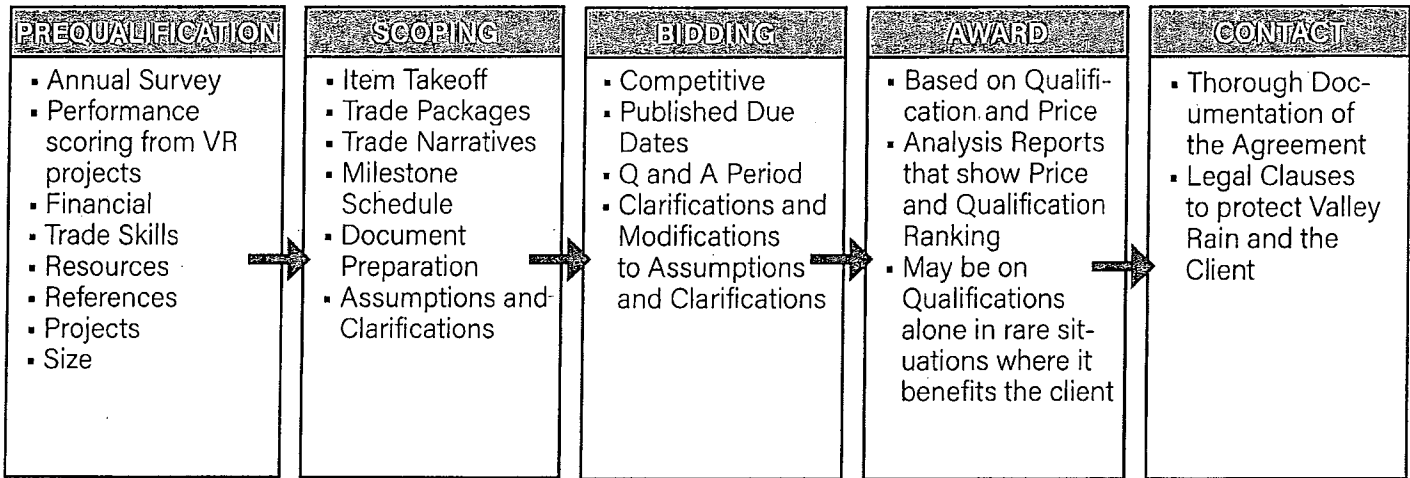
The assigned Project Manager creates a Critical Path Schedule that takes a closer look at specific tasks required for construction and analyzes the interdependencies, and critical path activities. Valley Rain reports this plan using Microsoft Project software. Updates: Monthly updates communicate the progress of work and any changes to the plan.

3 The Look-Ahead Schedule:

The Look-Ahead Schedule is prepared by the assigned Project Superintendent and communicates the projected tasks for the current and next few weeks. This document becomes a discussion exhibit for weekly meetings and short term planning. It often has more detail than the CPM schedule and includes specific closures or impacts to existing facilities. The Look-Ahead Schedule is distributed weekly.

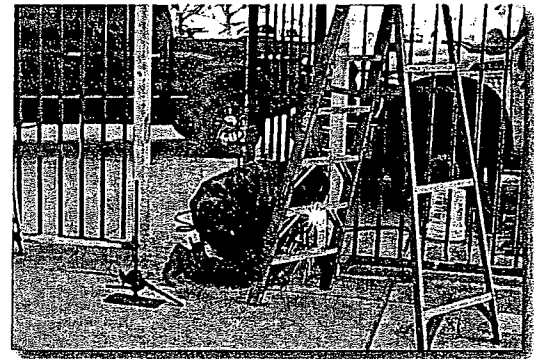
A.1.4 Subcontractor Selection Process

COMPONENTS (A FULL PLAN IS INCLUDED IN THE APPENDIX):



ADVANTAGES OF VALLEY RAIN'S PLAN:

- *Selects the Best Contractor for the Project*
- *Resolves Scope Questions by Clear Communication*
- *Clear Understanding of the Schedule Requirements*
- *Encourages Competition*
- *Provides Competitive Market Pricing*
- *Thoroughly Documents the Agreements*
- *Reduces Scope Gaps and Overlaps*
- *Allows for Client Input and Review*
- *Reduces Potential of Disputes*



A.1.3 Self Performing

Our Approach to Self-Performed Work:

Valley Rain intends on bidding as a subcontractor for trade packages for which it is qualified. These will normally include demolition, grading, concrete, underground, base course, irrigation and landscaping. For these trades we will actively and openly solicit competitive bids from other prequalified subcontractors and will recommend for award the best combination of qualification and price.

The average percentage of self-performed work for projects completed in 2017, 2018 and underway is 52%. This excludes the Paloma Community Park project about to begin where Valley Rain is self-per-

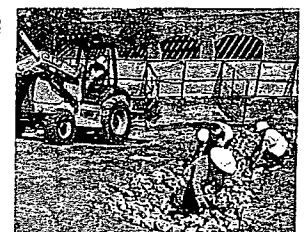
forming 26% of the subcontract work as a part of the Hunter-Valley Rain Design-Build Team. It is interesting to note that our CMAR and Design-Build projects result in a similar percentage.

Advantages of Self-Performed: We can achieve higher quality with more schedule control by the use of our own crews. We are competitively priced because of our experience and efficiency in park and trailhead construction.

Whether we self-perform, or manage subcontractors, our team knows the scope of work better and will achieve better results.

Key Statistics:

JOC as a % of Total Revenue	46%
% Self Performance on JOC's	52%
CMAR, Design-Build and Competitive Bid as a % of Total Revenue	54%
% Self Performance on the above	52%
Average Overall Self Performance	52%





A.2 EXPERIENCE & QUALIFICATIONS OF THE CONTRACTOR

A.2.1 Contractor Licenses

Applicable Arizona licenses (*A copy of the licenses are attached in the Appendix*):

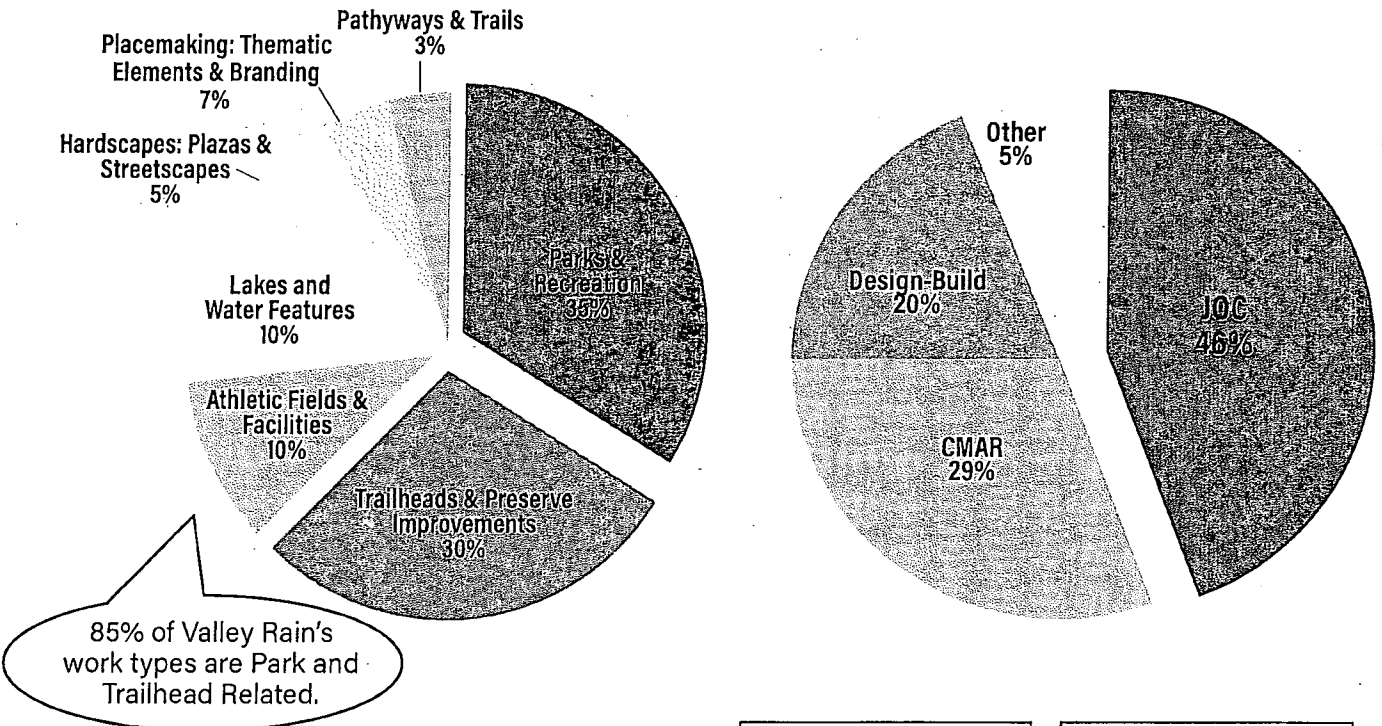
General Engineering Contractor A-084744

General Commercial Contractor B-01-085076

Daniel K. Kuwitzky, Vice President of Construction, Qualifying Party. All licenses are held by the firm.

A.2.2 Differentiating Skills

Differentiating Factor: Valley Rain specializes in Parks and Trailheads using JOC, Design-Build and CMAR.



Local Experience:

Valley Rain is based in Tempe, AZ and has served the local construction community for 41 years.

- Knowledge of local physical, environmental and cultural conditions
- Knowledge of scientific and agronomic factors in the desert southwest
- Knowledge of local Peoria governmental, code and permitting processes
- Knowledge of local construction market trends
- An established network of local subcontractors and suppliers
- A local workforce that is stable and loyal to Valley Rain and its clients
- Local and trusted relationships with the design community
- Relationships with other local communities that deepen our understanding of project issues
- Locally-based ownership and leadership with deep commitments to improving the quality of life to our Arizona communities

Our goal is to add exceptional value to every project partnership. We draw from experience and provide solutions in design and construction.

Value to our Clients

We invest in relationships that last beyond projects and teams. We highly value the privilege of lifetime friendship resulting from our work.

Relationships Built on Trust

Quality above Expectations

We exceed specifications by creating a culture of quality that gives our workers and clients a sense of pride.

Safety for Workers & Public

We exceed compliance by inspiring genuine care for our coworkers and the public.



A.2 EXPERIENCE & QUALIFICATIONS OF THE CONTRACTOR

A.2.2 Differentiating Skills (continued)

Specialty Skills:

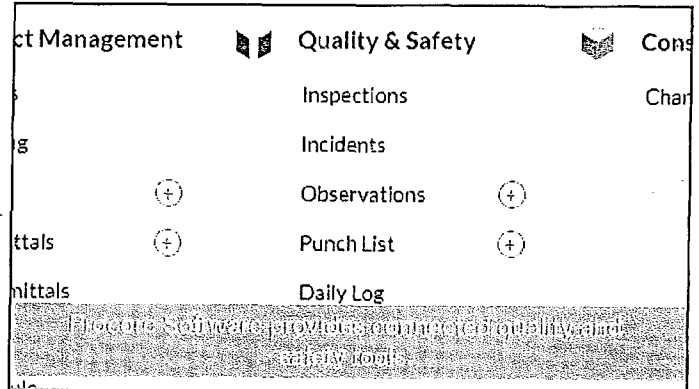
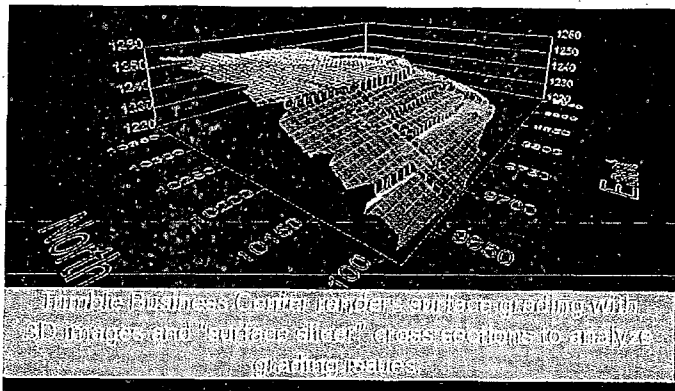
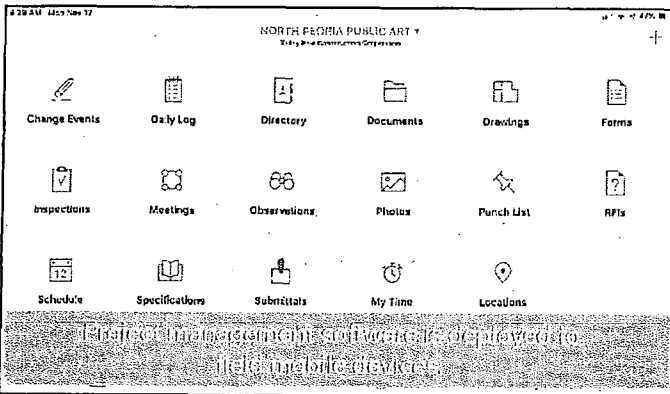
- Natural Turf Athletic Surfaces
- Decorative Concrete Surfaces
- Natural Desert Protection and Restoration
- Large Turf Irrigation Systems and Controls
- Lakes and Water Features

Cloud Based Project Management Tools and Technology

- » Cloud-based technology deployed to field iPads
- » Procore Software for Project Management and document sharing
- » B2W Track Software for payroll and equipment reporting
- » Daily project documentation from the field with photos, reports, quantities, issues
- » Software for Quality Management
- » Software of Safety Management

Specialized Technology:

- 3D Surface Modeling and Automated Grade Control
 - » Trimble Business Center Heavy Construction Edition
 - » 3-D Modeling Experts in House
 - » Quality Control for finish surface grading: We use surface tools, surface slicer views and one tenth contour intervals to view and troubleshoot design surfaces.
 - » Exports to Trimble Data Collectors for In-house field staking
 - » Exports to Trimble Machine Cards for Automated Equipment Grade Control
 - » We can replicate the design intent in the field without the use of conventional stakes!
 - » Use of Robotic Total Station for plus or minus 1/8" vertical accuracy where needed



Design Capability:

Valley Rain is exceptionally qualified to work in a Design-Build or Design-Assist Capacity with qualified members of the A/E community. We have existing relationships with all key designers in the Park, Trail and Landscape space. Due to Valley Rain's proactive voice in the design process, we can be more effective than contractors that lack our specialized experience in this field. We also carry professional liability insurance in the amounts of \$1M per occurrence and \$2M annual aggregate with a \$14,000,000 umbrella. That's a large safety net for your JOC projects!



A.2 EXPERIENCE & QUALIFICATIONS OF THE CONTRACTOR

A.2.3 Project Scale and Complexity

VERSATILITY IN PROJECT SIZE:

Upper Range: Valley Rain is Bondable in excess of \$20,000,000 on a single project and has successfully completed multiple park projects in the \$15,000,000 range. We are currently teamed with Hunter Contracting, jointly managing the Paloma Community Park project valued at \$34,000,000.

Lower Range: 46% of Valley Rain's revenue is from JOC job orders that range from \$10,000 to \$3,000,000. Our average Job Order Contract Amount is \$497,000.

Our goal in JOC contracting is to partner with you, our client. This means we are happy to gear down and quickly handle small projects, or gear up and manage the major ones.

VR Style: We maintain experienced and very focused staff to give clients more detailed attention and personal service on the jobs we procure.

Complexity: Valley Rain's work is not cookie cutter construction, but very aesthetic, diverse and customized for each project. The more complex the project, the more value our clients receive from Valley Rain.

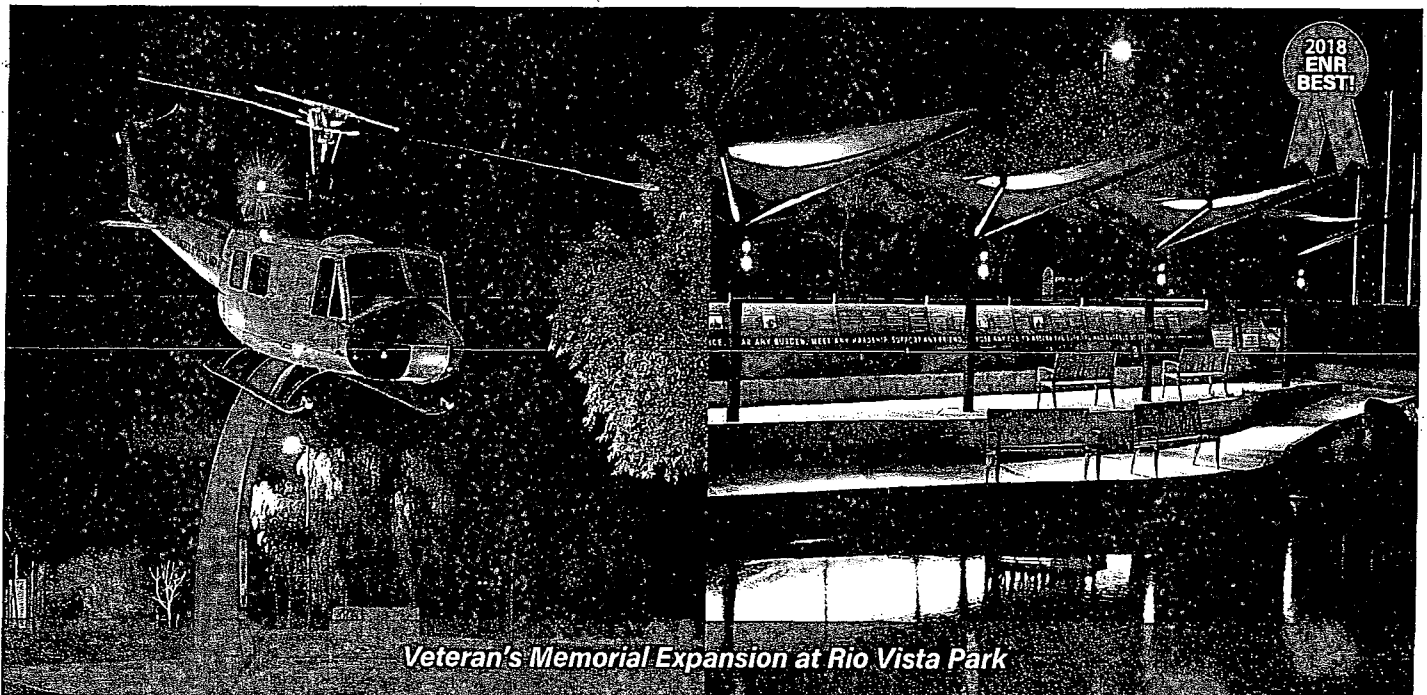
- Blend of Civil and Landscape Construction: This mix is a differentiating factor for Valley Rain.
- Integration of High-End Vertical Structures into Horizontal Spaces: Example: The monumentation at P83 used a variety of materials, concrete, steel, rock, glass and lighting to create memorable effects and effective branding.
- Many integrated specialty trades on one project. Last year alone, we executed 210 specialty subcontract agreements.
- Often unique and original structures, applications or methods

Highly Detailed:

- Aesthetic treatments for beautification, placemaking and branding
- Functional treatments for durability and safety

Example: Veterans Memorial Expansion at Rio Vista Park. **Winner of the ENR Southwest 2018 Best Projects Award: Landscape and Urban Development**

This Design-Build JOC project was a highly sensitive project for the City of Peoria. It included complex design elements on an existing site with impacts to an existing lake and park. The elements were tightly integrated on a compact site with limited access. The creativity continued from design through construction and the project was delivered with a great sense of pride and accomplishment from all members of the team.



Veteran's Memorial Expansion at Rio Vista Park



A.2 EXPERIENCE & QUALIFICATIONS OF THE CONTRACTOR

A.2.4 Resource Allocation

Valley Rain uses disciplined tracking and forecasting methods to plan for resource availability across all projects. The question (and our answer) is similar to section A1.2 Managing a Diverse Program.

MASTER SCHEDULE

- Order is added to our Master Company Schedule for tracking.
- Shows projected start and end dates for construction
- Shows ROM estimates for size
- Once assignments are prepared, so is the selection of a PM and Superintendent
- Tools filter for PM or Superintendent to resolve workload and assignment conflicts.
- Also filter by City shows and overview of each JOC program
- Shows Project Status:
 - » Future
 - » Design
 - » Bidding
 - » Construction
 - » Closeout: Job Order stays visible until Valley Rain's Closeout Inspection Checklist is Complete
- Reviewed weekly by Valley Rain Management Staff for team discussion and updates

LABOR HISTOGRAM

- Shows weekly labor schedule for VR self-performed projects
- Uses man hour ratios from similar work at the Future and Design Stages
- Uses actual estimating manpower after the bidding stages
- Provides needed information for self-performed bidding availability
- Provides information on needed outsourcing

PROJECT PIPELINE

- Valley Rain encourages routine discussions with the client regarding upcoming potential projects.
- The earlier we learn about each project, the better job we can do at planning our resources for the most effective schedules
- Monthly recap reports for Pipeline updates across City departments and PM's

STAFF SELECTION PROCESS

Considerations:

- Our Program Manager (Dan) will make assignments for PM and Superintendent
- Team input from client and staff are strongly considered
- Availability and Workload. The Superintendent must be 100% available for the projected time frame.
- JOC assignments may adjust if project schedules change in order to resolve conflicts. Valley Rain has a deep and flexible staff with the ability to quickly adjust to changing needs.
- Skills and Experience matched to the job
- Political significance and project visibility are considered in the selection

A.2.5 Active Job Order Contracting Agreements

Active and Completed Job Orders 2017-2018

Agency	Minimum (\$)	Maximum (\$)	Quantity (#)	Median (\$)
City of Peoria	\$8,915	\$379,245	12	\$93,936
City of Scottsdale	\$1,592	\$701,710	18	\$69,342
City of Phoenix	\$21,000	\$1,792,485	9	\$422,859
City of Mesa	\$73,323	\$883,163	13	\$162,395
City of Tempe	\$208,760	\$497,254	5	\$288,482
City of Avondale	\$158,052	\$318,904	2	\$238,478
ASU	\$1,373	\$538,207	8	\$73,294
Town of Queen Creek	\$172,072	\$350,791	3	\$180,298



A.3 QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

A.3 Bios



DANIEL KOWITZKY
JOC Program Manager/MP Const.

Dan will combine **executive management** and **technical construction** skills to partner with the City of Peoria.

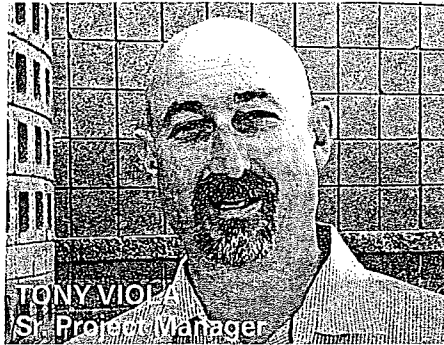
Management: As the City's first point of contact, Dan will evaluate the needs and build VR teams that will provide effective solutions to the City. He is skilled at all types of communication, the management of long term relationships, design and construction. Dan has the ability to see the big picture and to shape our response teams to best meet the contract needs.

Technical: Dan's technical experience is diverse and includes engineering, heavy civil, vertical building, estimating, project management, office supervision and field supervision. He continues to learn and apply emerging technology in construction, leveraging those tools to increase productivity, value and quality on every project. He will assign staff, then support them with technical assistance.

Experience: Dan has provided management and technical leadership in local public works construction for 41 years. This includes the construction of over 400 parks, high end public plazas and professional sports fields.

EDUCATION:

- Bachelor of Science Engineering, Division of Construction, ASU
 - Continuing Education ACE, Lorman, Trimble, OSHA
- Years with VR: 29 years
Years in the Industry: 41 years



TONY VIOLA
Sr. Project Manager

Tony has a well-deserved reputation as a construction solution provider. His 20 years of relevant construction experience has been focused in the specialized area of park design and construction and has included challenging and creative projects in the City of Peoria. He effectively uses estimating, scheduling and project management skills and software to manage budgets and to create outstanding projects.

Tony manages a high volume of JOC projects that have spanned the range of very small, very fast to larger and more complex projects like the Concourse and Field Improvements at Peoria Stadium. Even with a high volume, Tony has the capacity to manage every detail and to successfully tackle any construction or design challenge.

A majority of Tony's work has been in parks, trailheads, plaza and street-scape construction. Recent projects have included business district branding that have combined natural and manufactured materials with dramatic lighting to create memorable places. He also brings extensive experience in trailhead construction and has almost exclusively managed improvements in the well-known McDowell Sonoran Preserve.

EDUCATION:

- Bachelor of Arts University of San Diego
 - Continuing Education ACE, Lorman, Trimble, OSHA
- Years with VR: 11 years
Years in the Industry: 20 years



BRETT FOWLER
Sr. Project Manager

Brett is a veteran JOC park builder with over 30 years of park and golf course construction experience and 14 years with Valley Rain. He successfully managed VR's very first park JOC program for the City of Chandler beginning in 2003, which included new and renovation park projects. Some were "Mini-Design-Build" with complete design services. Since then, Brett has been continuously involved in the delivery of JOC park and landscape construction for multiple clients.

Brett's career history is exclusively centered around landscape and hardscape construction. His experience as a golf course construction superintendent and also as a technical irrigation sales rep has augmented his diverse experience with Valley Rain. He has managed large 80-acre public parks with sand-based turf fields, ancillary park and maintenance buildings, lake and pump reconstruction, irrigation system replacements as well as countless small Job Orders of every type.

Brett is equipped to manage every type of JOC project and has extensive experience in federally funded projects, including Davis-Bacon wages, certified payroll and LCP Tracker.

EDUCATION:

- Bachelor of Arts Marketing & Finance, Oklahoma State Univ
 - Continuing Education ACE, Lorman, Trimble, OSHA
- Years with VR: 14 years
Years in the Industry: 30 years



A.3 QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

A.3 Bios



SAMI EDAN NAOUNI
Project Engineer / Asst. PM

Sami joined the VR management team in April and has already significantly increased our capacity to manage Job Order Contracts. He has demonstrated an outstanding work ethic and is currently handling submittals, scheduling, job meetings, software administration, safety policy, shop drawings, subcontractor management and cost control on JOC and CMAR projects. He understands park and trailhead construction and actively voices ideas and original solutions.

With 9 years in the industry, he has worked internationally as a Civil Project Engineer on complex site projects of all sizes. Sami is a construction software applications expert and has offered support to both office and field staff at Valley Rain in the use of construction technology.

Sami is an excellent communicator, articulating solutions to clients, management and field teams equally. He is also an effective relationship builder and team player, always pushing hard for the success of his team. Sami is already capable of managing smaller JOC's with the full support of our more seasoned Project Managers.

EDUCATION:

- Masters of Business Administration, Grand Canyon University
 - Bachelor of Civil and Environmental Engineering, Notre Dame University, Beirut Lebanon
- Years with VR: 1 year
Years in the Industry: 9 years



BYRON BURKHOLDER
Chief Estimator

Byron has the distinction of being an estimator at Valley Rain for 33 years. With more park and trailhead experience than any other known estimator, he is accomplished in all civil, landscape and building trades. With a passion for adding value to projects, he uses Value Engineering to make significant impacts on the amount of quality work that Valley Rain can deliver for a given budget.

Byron uses B2W Estimate and Panterra Tools software to quickly and accurately break down projects and to communicate clearly with the subcontractor and supplier communities. He integrates Valley Rain's prequalification program into the estimating process to bring the best subcontractors to each project.

Bryon's experience on hundreds of similar projects gives him a unique ability to perform conceptual estimates. This is extremely valuable during budgeting, design and planning of potential Job Orders. He has also built hundreds of GMP documents for contracts of all sizes and understands the specific client requirements needed for detailed JOC proposals.

EDUCATION:

- Bachelor of Science in Business, Arizona State University
- Years with VR: 33 years
Years in the Industry: 33 years

Valley Rain is Known for its Loyal and Stable Work Force

- 48% of our employees have been with VR for over 10 years.
- 31% of our employees have been with VR for over 20 years.
- 9% of our employees have been with VR for over 24 years!
- Average Tenure: 11.2 Years!

This Means:

- Core employees committed to the company and to your project.
- More experience on every project.
- Consistent employees on your project from beginning to end.
- It speaks volumes of Valley Rain's quality as a contractor and an employer.

VR Staff Earn Industry Awards:

Rio Vista Veterans Memorial:

- ENR 2018 Best Projects Award, Landscape/Urban Development Category, Peoria Veterans Memorial at Rio Vista Park is featured in the November 5, 2018 issue of ENR Southwest and is being evaluated for a National Best of the Best Award.
- ASLA 2018 General Design Honor Award

Valley Rain has now received 27 project awards and 6 Best Projects from ENR.





A.3 QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

A.3 2017 & 2018 Job Order Contract Matrix

PROJECT NAME	STAFF	PROJECT TYPE	PROJECT NAME	STAFF	PROJECT TYPE
P83 Freeway Signs	DK TV		Rose Mofford & Papago Park	DK TV	
Sports Complex Parking Lot Drainage	DK TV BB		Stormwater Outreach	DK TV	
Monroe Street	DK TV		Queek Creek Trail Landscape	DK TV	
Rio Vista Park- Lower Lake Improvements	DK BF BB		Queen Creek Trail Underpass	DK TV	
Sunnyslope	DK BF BB		QC Trail Embankment Stabilization	DK TV BB	
79th Ave & Seldon	DK BF		Goodyear City Hall Project	DK TV	
Peoria Auto District	DK TV		Estrella Softball Fields	DK BF BB	
Eastwing Basins	DK BF		ASU Hayden Library	DK BF	
Agua Fria Trail Connection	DK BF		ASU Nelson Fine Arts Improvements	DK BF	
North Peoria Public Art	DK TV		ASU Sonora Annex	DK BF	
Hayes Park Surcharge Basin	DK BF		ASU Gammage Parkway	DK BF	
Kingsborough park Playground	DK BF BB		Water Campus Entry Beautification	DK BF	
Rancho Del Mar Playground	DK BF		Motorola Well Site	DK TV BB	
Dobson Ranch Park Improvements	DK TV BB		School & Park Field Fencing	DK TV BB	
Harmony Park Irrigation Improvements	DK BF BB		Cholla Park Pickleball Court Fence	DK TV BB	
Gene Autry Park Playground	DK TV BB		UCW Reach 13 Improvements	DK TV	
Red Mountain Multi-Generational Building	DK TV BB		Toms Thumb TH Parking Expansion	DK TV BB	
Riverview Filter Replacement	DK TV BB		Pinnacle Peak Wildlife Drinker	DK TV BB	
Fiesta Fields Drainage & Playground Improvements	DK BF BB		Chaparral Xeriscape Garden & Drainage Improvements	DK TV BB	
Countryside Park Lighting & Field Imp.	DK TV		Cocopah Fields Fencing	DK TV	
Cubs Stadium Drainage Improvements	DK TV BB		SW Pumpback Station	DK TV BB	
Concesstion Dock - Tempe Town Lake	DK BF		Giants Stadium	DK TV BB	
Daley Park Improvements	DK BF		Indian School Park Valley Gutter	DK TV BB	
Selleh Park Playground, Pathway and Lighting Improvements	DK BF		Wellsite Electrical Removals- 68th St and AZ Canal	DK TV BB	
Harelson Tennis Court	DK BF		Cactus Road Multi-Use Path	DK TV BB	
Westside Multi-Generational Center	DK TV		Ashler and Dixleta Trail Improvements	DK TV SD	
Rose Mofford Sports Complex, Phase 2	DK BF		Granite Mountain Trailhead Well	DK TV	
South Mountain Park Entry & Ramadas	DK TV BB		Hayden Road Path	DK TV	
Story Days Sandblasting	DK BF BB		Fire Station 613 Landscaping	DK TV BB	
Paseo Highlands Pickleball Courts	DK TV		Las Ligas Park Renovations	DK BF	
Pecos Pickleball Courts	DK TV		Friendship Park	DK BF	
Sonoran Edge Protection	DK TV		Glendale 4 Parks	DK BF	

LEGEND

DK Dan Kuwitzky	SD Sami Dannaoui	Rehab Park/Campus	Partnering	Shade Canopy
TV Tony Viola	BB Byron Burkholder	New Park/Campus	Restrooms	Athletic Field
BF Brett Fowler		Municipal/ROW	Trailhead	Sports Courts

3 REFERENCES:

1. Annette Grove, City of Scottsdale Sr. Project Manager, agrove@scottsdaleaz.gov, 480.312.2399
2. Joe Diaz, City of Phoenix Project Manager and Landscape Architect II, joe.diaz@phoenix.gov, 602.534.2161
3. Walter Kinsler, RLA, Project Manager for the City of Goodyear, walter.kinsler@goodyearaz.gov, 623.882.7959



Subcontractor Selection Plan

Valley Rain will select all subcontractors based on qualifications only or qualifications plus price per ARS § 34-601. Our process includes:

1. Comprehensive Prequalification Applications including Financial, Experience, Safety, Licensing, Litigation Record, References
2. Review and Scoring by the Valley Rain Team. Subcontractor must meet adequate requirements for the project. Value is added for prior successful contracts with Valley Rain or the Client on similar projects.
3. Establishment of Trade Packages for Competitive Bidding
4. Bidding with Support from the Project Management and Estimating Team. Value Engineering is encouraged.
5. Value Engineering is encouraged and may influence the outcome of the subcontract selection. Value Engineering ideas will NOT be shared between subcontractors for alternate pricing.
6. Lump Sum Bidding to eliminate sources of change orders.
7. Subcontractor Analysis, including price rank, qualification rank, and post bid interview
8. Final Selection and Review of the process with the Client.

Valley Rain will identify potential self-performed trades and will compete as a prequalified subcontractor.

BENEFITS OF OUR PLAN:

- Our plan assures the City of the best value for each trade.
- Our knowledge of self-performed trades makes us better managers of subcontractors and provides more valuable input during preconstruction.
- We can assure a higher quality based on our qualification efforts and our reputation for high-quality projects. Subcontractors with Valley Rain experience have the experience of producing projects to a higher level of quality.

AZ ROC Licence Identification Cards

———— IMPORTANT NOTICE ————
YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY IN WRITING WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS IN WRITING WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY [SEE A.R.S. § 32-1151.01]
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY, SUCH AS ANY CHANGE OF THE OWNERSHIP IN A SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. [SEE A.R.S. § 32-1124(B)(F) § RULE R-4-9-110]

Valley Rain Construction Corporation

1614 E Curry Rd
Tempe, AZ 85281-1970

———— IMPORTANT NOTICE ————
YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY IN WRITING WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS IN WRITING WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
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Valley Rain Construction Corporation

1614 E Curry Rd
Tempe, AZ 85281-1970

**THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY**



LICENSE EFFECTIVE THROUGH: 10/31/2019
STATE OF ARIZONA
Registrar of Contractors CERTIFIES THAT



Valley Rain Construction Corporation

CONTRACTORS LICENSE NO. 84744 CLASS A

General Engineering

THIS CARD MUST BE
PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR

**THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY**



LICENSE EFFECTIVE THROUGH: 12/31/2019
STATE OF ARIZONA
Registrar of Contractors CERTIFIES THAT



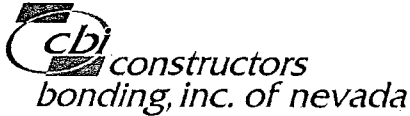
Valley Rain Construction Corporation

CONTRACTORS LICENSE NO. 85076 CLASS B-1

General Commercial Contractor

THIS CARD MUST BE
PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR



535 E. McKellips Rd., #129
Mesa, AZ 85203

P.O. Box 36797
Las Vegas, NV 89133

Phone: 480-968-0100
Fax: 480-968-4043

Phone: 702-878-2622
Fax: 702-878-2825
www.cbibonding.com
greg@cbibonding.com

October 30, 2018

City of Peoria
Materials Management
Procurement
9875 N. 85th Ave., 2nd Fl.
Peoria, Arizona 85345-6560

**RE: Valley Rain Construction Corporation
Job Order Contracting for Park, Trail and Landscape Construction
SOLICITATION NUMBER: P19-0018**

To whom it may concern,

The surety requirements for Valley Rain Construction Corporation are handled by Travelers Casualty and Surety Company of America, 20860 N. Tatum Blvd., Suite 400, Phoenix, Arizona 85050. We have had the privilege of handling their surety needs since 1999.

In the current Best Rating Guide, Travelers Casualty and Surety Company of America is rated A++. Additionally, Travelers is listed in the US Treasury Circular 570.

Previously, Travelers Casualty and Surety Company of America has provided single project bid, performance and payment bonds for Valley Rain on contracts in excess of \$20,000,000. Currently, Valley Rain enjoys a \$30,000,000 bond line of credit.

A specific request for surety bonds will be given our due consideration based on our underwriting evaluation at the time of the request. This evaluation includes receipt and review of acceptable contract terms and conditions, acceptable bond forms, adequate financing as well as other underwriting conditions, which may exist at the time of the request. Any request for bonds is a matter between Valley Rain and ourselves, and we assume no liability to any party if for any reason we do not execute said bonds.

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

By: 

Gregory P. Griffith, Attorney-In-Fact



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Gregory P. Griffith, of Las Vegas, Nevada**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 3rd day of February, 2017.



State of Connecticut

City of Hartford ss.

By:
Robert L. Raney, Senior Vice President

On this the 3rd day of February, 2017, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 30th day of October, 2018



Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.**



Terminations and Claims

Terminations: None.

Claims: Valley Rain has not had a claim arising from a contract owner in the past 5 years.

ATTACHMENT C

**JOC Cost Proposal Forms
(Pricing Matrix & Project Cost Sheet)**

(See Attached)

City of Peoria
JOC Pricing Matrix
v3

2/27/2019

P-19-0018, JOC for Parks, Trails & Landscape Construction
Company Name: Valley Rain Construction Corporation

	\$1.00 to \$100,000	\$100,001 to \$250,000	\$250,001 to \$500,000	\$500,001 to \$750,000	\$750,001-\$1,000,000	\$1,000,001-\$1,250,000	\$1,250,001-\$2,000,000	over \$2,000,000
Indirect Cost of the Work								
Job Order Contractor's Fee (Professional Svcs)	5.00%	5.00%	4.00%	4.00%	4.00%	3.00%	3.00%	2.00%
Job Order Contractor's Fee (Construction)	14.00%	13.00%	12.00%	11.00%	10.00%	9.00%	8.00%	7.00%
Payment & Performance Bonds	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
Insurance: (See note for Professional Liability)								
General Liability	0.88%	0.88%	0.88%	0.88%	0.88%	0.88%	0.88%	0.88%
Builder's Risk	Included	Included	Included	Included	Included	Included	Included	Included
AZ/County/City Taxes (65% of .081)	5.265%	5.265%	5.265%	5.265%	5.265%	5.265%	5.265%	5.265%
Total Indirect Cost % (Excl. Professional Svcs)	21.15%	20.15%	19.15%	18.15%	17.15%	16.15%	15.15%	14.15%
Total Indirect Cost % (Inc. Professional Svcs)	26.15%	25.15%	23.15%	22.15%	21.15%	19.15%	18.15%	16.15%
Labor Burden Multiplier (Percentage) (on employee's base hourly wage rate)	1.4 (140%)	1.4 (140%)	1.4 (140%)	1.4 (140%)	1.4 (140%)	1.4 (140%)	1.4 (140%)	1.4 (140%)

Note: General Conditions are not included in Indirect Costs and will be included in Cost of the Work
Note: Professional Liability is included.

SECTION B: LABOR (inclusive of burden)

Position	Unit	Quantity
Construction Principal	Hours	1.0
JOC Program Coordinator	Hours	1.0
Project Manager 1 (Senior Experience Level)	Hours	1.0
Project Manager 2 (Junior Experience Level)	Hours	1.0
Superintendent 1 (Senior Experience Level)	Hours	1.0
Superintendent 2 (Junior Experience Level)	Hours	1.0
Project Engineer	Hours	1.0
General Superintendent	Hours	1.0
Safety Manager	Hours	1.0
Project Coordinator	Hours	1.0

Labor Cost		Position
Each	Total	Total
\$ 108.00		
\$ 95.00		
\$ 64.00		
\$ 43.00		
\$ 58.00		
\$ 50.00		
\$ 43.00		
\$ 75.00		
\$ 55.00		
\$ 36.00		
Total Labor Cost		\$ -

SECTION C: EQUIPMENT (supporting information attached)

Item	Unit	Quantity
Construction Vehicle (Employee Allowance)*	Week	1.0
Construction Pickup (Light Duty)*	Week	1.0
Construction Pickup (Heavy Duty)*	Week	1.0
Employee Voice / Data Package (Phone / Data Card)	Week	1.0
Firm Owned Water Truck **	Month	1.0
Backhoe/Gannon Loader **	Week	1.0
		1.0
		1.0
* = Includes Fuel		1.0
** = Equipment Only for 2000 gal water truck/Backhoe/Loader. Driver and fuel costed in General Conditions		1.0

Equipment		Item
Each	Total	Total
\$ 480.00		
\$ 420.00		
\$ 520.00		
\$ 24.00		
\$ 2,200.00		
\$ 950.00		
Total Equipment Cost		\$ -

SECTION D: MATERIALS (including non-labor General Conditions / Requirements)

Item	Unit	Quantity
Materials1	Each	1.0
Materials2	Box	1.0
Materials3	Roll	1.0
Materials4	Ton	1.0
Materials5	Yard	1.0
Materials6	Each	1.0
Materials7	Each	1.0
Materials8	Each	1.0
Materials9	Each	1.0
Materials10	Each	1.0

Material		Item
Each	Total	Total
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
Total Materials Cost		\$ -

SECTION E: SUBCONTRACTORS (including JOC Contractor self-performing as a subcontractor)

Company	Description of Work to be Performed (Supporting quote & information attached)	Item Total
JOC Contractor Name	Grading	\$ -
JOC Contractor Name	Underground Utilities	\$ -
Subcontractor Name1	Survey	\$ -
Subcontractor Name2	Materials Testing	\$ -
Subcontractor Name3		\$ -
Subcontractor Name4		\$ -
Subcontractor Name5		\$ -
Subcontractor Name6		\$ -
Subcontractor Name7		\$ -
Subcontractor Name8		\$ -
Total Subcontractor Cost		\$0.00

SECTION F: ALLOWANCES & CONTINGENCIES

Company	Description of Allowances & Contingencies	Item Total
JOC Contractor Name	Allowance A Description	\$ -
	Allowance B Description	\$ -
	Allowance C Description	\$ -
	Materials Testing	\$ -
	Builder's Risk Insurance Premium (Inc)	\$ -
	OCP Insurance Premium (Inc) @ Direct Cost Reimbursement	
JOC Contractor Name	Contractor's Construction Contingency	\$ -
		\$ -
City of Peoria	Owner's Construction Contingency	\$ -
		\$ -
		\$ -
Total Allowances & Contingencies Cost		\$0.00

	(%)	(\$)
Subtotal Professional Services (A1+A2)		\$4.00
JOC Contractor's Fee (Professional Services)		\$0.00
Sales Tax	5.265%	\$0.21
Total Professional Services:		\$4.21
Subtotal Construction (B+C+D+E+F):		\$ -
General Liability Insurance		\$ -
Bond		\$ -
JOC Contractor's Fee (Construction)		\$ -
Sales Tax	5.265%	\$0.00
Total Construction :		\$ -
TOTAL JOB ORDER COST:		\$4.21

Submitted by:


Name, Title V.P. Construction

3/27/19
Date

ATTACHMENT D

**Contractor's Contacts
(Contact List & Authorized Signature Form)**

(See Attached)



Valley Rain Signature Authority

City of Peoria, Arizona, Job Order Contract P19-0018

JOC for Park, Trail, and Landscape Construction

- A. Master Contract
- B. Bonds
- C. Adjustments, extensions
- D. Job Order Agreements above \$1,000,000
- E. Job Order Agreements below \$1,000,000
- F. Change Orders
- G. Pay Applications
- H. Administrative Documents
- I. NTP

Daniel K. Kuwitzky, A-I

Nancy Palmer, A-H

Fred Dalzell, A-I

Cathy Dalzell, A-H

Tony Viola, C-I

Brett Fowler E-I

Sami Dannaoui F-H

Authorized by:

Daniel K. Kuwitzky

Vice President of Construction

Date: 3-27-19

3/25/2019

Valley Rain Staffing Levels

Peoria Landscape JOC 2019-2024

Construction Principal:			
Dan Kuwitzky:	O: 480.894.2835	C: 602.275.2265	dan@valleyrain.com
Fred Dalzell:	O: 480.894.2835	C: 602.768.9275	fred@valleyrain.com
JOC Program Coordinator			
Dan Kuwitzky:	O: 480.894.2835	C: 602.275.2265	dan@valleyrain.com
Tony Viola:	O: 480.894.2835	C: 602.505.8218	tony@valleyrain.com
Project Manager 1			
Tony Viola:	O: 480.894.2835	C: 602.505.8218	tony@valleyrain.com
Brett Fowler:	O: 480.894.2835	C: 602.828.4029	brett@valleyrain.com
Project Manager 2			
Sami Dannaoui:	O: 480.894.2835	C: 480.387.7754	sdannaoui@valleyrain.com
General Superintendent			
Wayne Rogers:	O: 480.894.2835	C: 602.725.2266	wayne@valleyrain.com
Superintendent 1			
Dennis Pantleo:		C: 602.725.2269	dennis@valleyrain.com
Jeff Weisbeck:		C: 602.757.4060	jeff@valleyrain.com
Robert Fuller:		C: 602.370.0611	bob@valleyrain.com
Frank Sorg:		C: 602.828.4599	frank@valleyrain.com
Superintendent 2			
Rico Uranga:		C: 602.616.7225	rico@valleyrain.com
Mike Rojas:		C: 480.296.4019	mrojas@valleyrain.com
Mike Higgins:		C: 602.725.2393	MHiggins@valleyrain.com
Art Hernandez:		C: 602.463.4593	AHernandez@valleyrain.com
Dave Root:		C: 602.725.2395	dave@valleyrain.com
Brandon Maupin:		C: 602.725.6094	brandon@valleyrain.com
Tyson Sweetland:		C: 480.322.6119	tyson@valleyrain.com
Chief Estimator			
Bryon Burkholder:	O: 480.894.2835	C: 602.723.4434	byron@valleyrain.com
Estimator 2			
Jeff Rees:	O: 480.894.2835	C: 480.200.3907	jrees@valleyrain.com
Administrative Assistant			
Ashley Dalzell:	O: 480.894.2835	C: 602.677.9159	ashley@valleyrain.com

With staff that fall into multiple categories, rates will be charged based on the function performed.

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
VALLEY RAIN CONSTRUCTION CORPORATION**

**EXHIBIT B
Scope of Work**

In accordance with the terms and conditions of this Agreement and the City of Peoria Contract No. ACON14119, the City is retaining Valley Rain Construction Corporation for landscape construction services for the following park sites:

- Desert Mirage Park
- Discovery Park
- Hillcrest Park
- New World Park
- Sunset Palms Park

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
VALLEY RAIN CONSTRUCTION CORPORATION**

EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

Method: City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit A.

Payment: Contractor shall be paid upon completion of the work performed based on the scope of work included herein and following the City's receipt of a properly completed invoice. All work and services performed must be completed to the satisfaction of the City of Glendale.

Invoicing: Contractor to submit invoice(s) monthly to City for payment. Invoice(s) to be paid in a timely manner in accordance with City of Glendale Finance Department procedures. Services to be based on the scope of work included herein and the quote provided by Contractor. Any issues regarding billing or invoicing must be directed to the City of Glendale representative requesting the service or material from the Contractor. A properly completed invoice should contain, at a minimum, the following:

- a. Parks or Recreation Project Name
- b. Parks or Recreation Project Number
- c. Contractor name, address, and contact information;
- d. City billing information;
- e. City contract number as listed on the first page of the Agreement;
- f. Invoice number and date;
- g. Payment terms;
- h. Date of service or delivery;
- i. Description of materials or services provided;
- j. If materials provided, the quantity delivered and pricing of each unit;
- k. Service address(es), contract number, and purchase order associated with the contract;
- l. Applicable taxes;
- m. Total amount due

NOT TO EXCEED AMOUNT

The total amount of compensation paid to the Contractor for full completion of all work required by the Project must not exceed \$2,888,421 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

City shall pay Contractor compensation in accordance with the rates as set forth in the City of Peoria Contract No. ACON14119 - Parks, Trails and Landscape Construction Job Order Contract for Landscape Construction for City Parks and Recreation Facilities.

Projects shall be quoted in writing and shall be reviewed by an authorized City of Glendale representative who shall verify that it meets the contractual pricing before any work begins.

Once the project has been completed, Contractor shall provide a detailed invoice to the City of Glendale. All invoices must match the quote provided and be confirmed by the City of Glendale authorized representative prior to paying.

No terms set forth in any invoice, purchase order, or similar document issued by Contractor will be deemed accepted by the City; the terms of the contractual relationship between the Parties are as set forth in this Agreement.