

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
DCS CONTRACTING, INC.**

This Linking Agreement (“Agreement”) is entered into as of this _____ day of _____, 2024, between the City of Glendale, an Arizona municipal corporation (“City”), and DCS Contracting, Inc., an Arizona corporation, authorized to do business in Arizona (“Contractor”), collectively, the “Parties.”

RECITALS

- A. On June 28, 2023, Pinal County, a member of the S.A.V.E Cooperative Purchasing Agreement, entered into a contract with Contractor to purchase the goods and services described in JOC Civil Construction Services Contract 233828ROQ (“Cooperative Agreement”), which is attached hereto as **Exhibit A**. The Cooperative Agreement allows 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 wishes to contract with Contractor for supplies or services identical to those being provided to other units of government under the Cooperative Agreement. Contractor consents to the City’s cooperative use of the terms and conditions of the Cooperative Agreement, and agrees to provide the supplies and services set forth in the Statement of Work appended hereto as **Exhibit B**.

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.
 - A. As provided in the Cooperative Agreement, purchases can be made by governmental entities from the date of award, which was June 28, 2023, until the date the contract terminates on June 27, 2024, unless the term is extended by mutual agreement of the parties to the Cooperative Agreement. The Cooperative Agreement, however, may not be extended beyond June 27, 2028. The initial period of this Agreement is the period from the Effective Date of this Agreement until June 27, 2024.
 - B. The City may extend the term of this Agreement for three (3) one (1) year terms if the Cooperative Agreement is likewise extended and the City gives the Contractor notice that it is exercising its option to extend this Agreement 30 days prior to the anniversary of the Effective Date. Glendale extensions are not automatic and shall only occur if the City affirmatively exercises its right to extend this Agreement.

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 shall not exceed dollars (\$) annually or two million dollars (\$2,000,000) for the entire term of the Agreement (initial term plus any extensions).
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. Uyghur Forced Labor Prevention Act (UFLPA). Contractor certifies that it does not currently, and during the term of this Agreement, will not use:
 - a. the forced labor of ethnic Uyghurs in the People’s Republic of China;
 - b. any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; and
 - c. any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

10. 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.
11. 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 John Murphey
5850 West Glendale Avenue
Glendale, Arizona 85301

and

DCS Contracting, Inc.
11535 East Germann Road
Chandler, Arizona 85286

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

“City”

City of Glendale, an Arizona
municipal corporation

By: _____

Kevin R. Phelps
City Manager

“Contractor”

DCS Contracting, Inc.,
an Arizona corporation

By: _____


Name: Brandon Byrne
Title: G.M. of Construction

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
DCS CONTRACTING, INC.**

**EXHIBIT A
JOC CIVIL CONSTRUCTION SERVICES CONTRACT 233828ROQ**

**Contract 233828ROQ
JOC Civil Construction Services**

THIS CONTRACT is entered into by and between Pinal County, (County), whose primary address is 31 N. Pinal St., Bldg. A., Florence, AZ 85132 and DCS Contracting, Inc., (Contractor), whose primary address is 11535 E. Germann Road, Chandler, AZ 85286.

1. **CONTRACT TERM.** The resultant contract term will commence on June 28, 2023, and will continue for one (1) year unless canceled, terminated, renewed, or permissibly extended. The County has no obligation to extend or renew the contract past the initial term.
2. **CONTRACT EXTENSION.** The County shall have the sole option to extend the term of this contract up to a maximum of four (4) additional one-year terms, or at the County's sole discretion, extend the contract on a month to month basis for a maximum of nine (9) months after expiration.
3. **CONTRACT TYPE.**

Firm-Fixed Lump Sum Price. The firm-fixed lump sum price is the amount or amounts shown or scheduled as such in the requested Pricing Document for each job order, each of which will be Contractor's complete and total compensation for carrying out the relevant portion of the work that it covers; and will not be subject to any adjustment on the basis of Contractor's cost experienced in performing under the contract.

Except as expressly stated otherwise in the solicitation, Contractor is deemed to have allowed in each firm-fixed lump sum price correct and sufficient amounts to cover all its obligations under or arising from the contract, at law, or otherwise, and to have allowed the necessary resources to enable it to carry out the relevant portion of the work that it covers within any time for performance specified in the Scope of Work.

Contractor will visit those physical locations where the priced work is to be carried out for each job order and to understand and account for local conditions that might affect the work, and will review, verify, and interpret for itself the necessary documents and information relevant to access, communications, climactic conditions, likelihood or risk of damage to adjacent property and occupants, possibility of interference by persons other than the County, and any necessary interfaces with others.

4. PRICING

4.1 Most Favored Customer Pricing.

Contractor warrants that, for the term of the contract, the prices, rates, discounts, terms, and benefits set out in the proposal, including any subsequent agreed upon amendment to it, will be equal to or better than the lowest prices, best rates, largest discounts, and most favorable terms and benefits, both separately and in combination, at which Contractor sells equivalent items. If Contractor provides more favorable pricing, rates, discounts, terms and benefits to any customer, it shall immediately apply all such pricing, rates, discounts, terms and benefits to pending County purchase orders and offer such pricing, rates, discounts, terms and benefits for all future purchases made by the County.



4.2 All-Inclusive Pricing.

Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's proposal as accepted by the County. Details of service not explicitly stated in the Scope of Work or in Contractor's proposal, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the contract are included in the pricing provided.

4.3 Price Reductions and Sales Promotions.

Price reductions may be submitted to or requested by the County for consideration at any time during the life of the contract. Promotions or reductions to sell existing inventory/stock and to include special manufacturer assistance are allowable.

4.4 Price Increase.

The Procurement Officer may review a fully documented request for a rate increase only after the contract has been in effect for two (2) years. Any requested rate increase(s) shall be based on an unmitigatable cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the cost of the goods or services contractually covered.

Any request for rate increase will only be considered at the time of a contract extension and must be submitted ninety (90) days prior to the adjustment. Any request for rate increase shall be a factor in the extension review process and if approved, be implemented by a formal contract change order. The County will have the right to request and receive additional information, statistics, financial records etc., and to direct the content, form, and format of presentation as it deems necessary to validate the Contractor's request for a rate adjustment. Failure to respond to the County's request within the time frames specified will nullify the Contractor's request. The County will determine whether the requested rate increase or alternate option is in its best interest and adjustments will be subject to availability of monies appropriated, if applicable.

4.5 Delivery.

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

4.6 Change Orders.

In the event the County requires any change(s) to the Scope of Work and the Contractor anticipates that the project's approved price may be exceeded as a result of the change, the Contractor shall submit a revised project cost estimate to the requesting department.

The Contractor shall not exceed an approved project's price without prior written approval by the requesting department. If prior approval is not received, the Contractor may be subject to sanctions. The revised project price proposal shall include the following:

- a. Changes and/or adjustments caused by the County's change to the Scope of Work for the project, including any adjustments to timeframes for completion of the project.



- b. An all-inclusive project price estimate, supported by a detailed cost breakdown to include all costs required to complete the project, as changed by the County.
5. **TIME OF COMPLETION.** Contractor covenants and agrees at its own proper cost and expense, to complete all work for the construction of assigned Job Orders and to completely construct the same and provide the services therein, as called for by this agreement free and clear of all claims, liens and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in the Job Order.
6. **INVOICING AND PAYMENTS.**

6.1 Invoices.

The Contractor shall submit detailed, itemized monthly invoices before payment(s) can be made. Incomplete invoices will not be processed. All invoices shall reflect the contracted prices or rates for goods or services as described in the Scope of Work. At a minimum, the invoice must provide the following information:

- a. Company name, address and contact
- b. County bill-to name and contact information
- c. Contract Number
- d. County purchase order number
- e. Invoice number and date
- f. Payment terms
- g. Itemized cost as outlined in the Job Order Proposal

Problems regarding billing or invoicing shall be directed to the using department as listed on the Purchase Order. All invoices must be submitted to the following e-mail or postal address:

financeinvoices@pinal.gov

Pinal County Finance Department

Attn: Accounts Payable

PO Box 1348

Florence, AZ 85132

- 6.2 Job Order Cost Proposal Structure. For each Job Order, the Contractor shall prepare a Job Order Cost Proposal with the sufficient level of cost detail as required by the County. 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), cost of subcontractors (supported by quotes), and allowable indirect costs (includes insurance). The Contractor shall utilize the markups established in the JOC Bid Table to calculate the overhead and profit for all Job Order Cost Proposals, unless otherwise requested by the County. Profit on subcontractors/subconsultants shall not exceed five (5) percent.
- 6.3 Progress Payments. Should an individual Job Order require more than thirty (30) days to complete, the County shall make progress payments monthly as the Work proceeds, or at more frequent intervals as determined by the County, on estimates of Work completed submitted by the Contractor and approved by the County. Contractor shall use an acceptable invoice from 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, the County will authorize payment for material delivered on the site and preparatory work done if Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform the Work.

- 6.4 Owner's Property. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the County. But this provision shall not be construed as:
- a. Relieving the Contractor from the sole responsibility for all material and Work upon which payments have been made or the restoration of any damaged Work; or
 - b. Waiving the right of the County to require the fulfillment of all the terms of the Contract.
- 6.5 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 County or the County'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 County may withhold an amount from the progress payment sufficient to pay the expenses the County reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payment shall be paid on or before thirty days after the estimate of the Work is certified and approved. The estimate of the Work shall be deemed received by the County on submission to any person designated by the County for the submission, review or approval of the estimate of Work.
- 6.6 Unpaid Amounts. The County shall pay all unpaid amounts due the Contractor under this Contract within thirty (30) days after;
- a. Completion and acceptance of the Work;
 - b. Presentation of a properly executed invoice;
 - c. Presentation of a fully executed Certificate of Performance provided by the County; or
 - d. Consent of Contractor's surety, if any.
- 6.7 No Invoice Without Authorization. Contractor shall not seek payment for any:
- a. Charges or fees not delineated in the contract.
 - b. Materials or services that have not been authorized on a purchase order.
 - c. Expediting, overtime, premiums, or upcharges absent the County's express prior approval.
 - d. Materials or services that are the subject of a contract amendment or change order that has not been fully signed.
- 6.8 Timeliness of Invoice. By A.R.S. § 11-622, all invoices must be submitted to the County within six (6) months after service or product is received. Failure to submit an invoice within this period of time will result in non-payment.
- 6.9 Payments. No payment shall be issued prior to receipt of acceptable goods and/or services and a correct invoice. The County shall make every effort to process payment for acceptable goods or services within thirty (30) calendar days after receipt of said items/services and a correct invoice.



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- 6.10 Payments Only to Contractor. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, the County will only make payment to Contractor under the federal tax identifier indicated on the accepted offer.
- 6.11 Payments to Subcontractors. Contractor shall make payment of all undisputed amounts due to Subcontractors, as applicable to their services, within thirty (30) days of receipt of funds from the County.
- 6.12 Availability of Funds. By A.R.S. § 35-154, every County payment obligation under the contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the contract, the County may terminate the contract at the end of the period for which funds are available, or, at County's discretion, allow appropriate amendment to the contract. No liability will accrue to County if it exercises the foregoing right or discretion, and County will have no obligation or liability for any future payments or for any damages as a result of having exercised it.
7. **ARIZONA LAW.** This contract shall be governed by the law of the State of Arizona and suits pertaining to this contract shall be brought only in the Pinal County Superior Court, Florence, Arizona.
8. **IMPLIED LAW.** Each provision of law and any terms required by law to be in this contract are a part of this contract as if fully stated herein.
9. **PUBLIC RECORD.** This contract is a public record and must be retained by the County for a minimum of six (6) years. All contracts are open to public inspection after contract award, except for any portions determined to be confidential by the County.
10. **CONTRACT ORDER OF PRECEDENCE.** All of the documents forming the contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the work as though the relevant work, requirements, obligations, or duties had been fully described on all, consistent with the other documents forming the contract and as is reasonably inferable from them as being necessary to produce complete results. In case of any inconsistency, conflict, or ambiguity among the documents forming the contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.
- a. Written Contract Amendments
 - b. Contract
 - c. Contract Exhibit(s) A (i.e. Contracted Scope of Work)
 - d. Contract Exhibit(s) B (i.e. Contract Pricing Documents)
 - e. Contract Exhibit(s) C (i.e. Responder's Proposal Documents)
 - f. Other Contract Exhibits
 - g. Orders, in reverse chronological order
11. **RELATIONSHIP OF THE PARTIES.** The Contractor under this contract is an independent Contractor and shall act in an independent capacity in performance under the contract. Neither party is or is to be construed as being an

employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

12. SEVERABILITY. Any term or condition deemed or adjusted illegal or invalid is thereby stricken from the contract and shall not affect any other term or condition of the contract.

13. NO PAROLE EVIDENCE. The contract, including any documents incorporated into the contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the contract.

14. NO WAIVER. Either party's failure to insist on strict performance of any term or condition of the contract is not, or will it be deemed to be, a waiver of that term or condition or a bar to, or diminished right of, enforcement of any term or condition.

15. CONTRACT ADMINISTRATION AND OPERATION.

15.1 Notices and Correspondence. Notices required by this Contract shall be made to the following addresses:

County	Contractor
Name: Lorina Gillette	Name: Matthew Byrne
Address: PO Box 1348 Florence, AZ 85132	Address: 11535 E. Germann Road Chandler, AZ 85286
Title: Procurement Officer	Title: VP, Estimating
Email: Purchasing@Pinal.gov	Email: matthew.byrne@dcscontracting.com

An authorized County representative and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the contract shall not be necessary.

15.2 Click-Through Terms and Conditions. If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of the County do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the contract. Accordingly, where an authorized County user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized County user is required to accept or be made subject to any terms and conditions in accessing or employing any materials or services, those terms and conditions will also be void.

15.3 Books and Records. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records *relating for any cost and pricing data submitted* in satisfaction of



§ 41-2543 for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records *relating to performance under the contract* for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Accordingly, Contractor or Subcontractor shall either make all such books and records available to the County at all reasonable times or produce the records at a designated County office on the County's demand, the choice of which being at the County's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

- 15.4 Contractor Licenses. Contractor and Subcontractor(s) shall maintain in current status all federal, state, and local licenses and permits required for the operation of its business in general, for its operations under the contract, and if required by this contract, the work itself.
- 15.5 Inspection and Testing. Per A.R.S. § 41-2547, the County may at reasonable times inspect the part of Contractor's or Subcontractors' plant(s) or places of business related to performance under the contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. The County may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the contract or that will be incorporated into something to be supplied under the contract. If the inspection or testing shows non-conformance or defects, the Contractor will owe the County reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by the County of those things.
- 15.6 Acceptance of Work.
- a. **Materials.** The County has the right to make acceptance of materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. The County may apply as acceptance criteria conformity to the contract, workmanship and quality, whether the constituent materials used are correct, and any other matter for which the contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected materials from the delivery location, or from any immediate locations to which it might have been reasonably necessary to move it, then inspect it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. The County will not owe Contractor any payment for rejected materials, and the County may, at its discretion, withhold or make partial payment for any rejected materials that have been returned to Contractor in those instances where the County has agreed to permit repair instead of demanding replacement.
 - b. **Services.** The County has the right to make acceptance of services subject to acceptance criteria. The County may apply as acceptance criteria conformity to the contract, accuracy, completeness, or other indicators of quality, or any other matter for which the contract or law states a requirement, whether

stated directly or by reference to another document, standard, reference specification, etc. The County will not owe Contractor any payment for un-accepted services; and the County may, at its discretion, withhold or make partial payment for any rejected services if Contractor is still in the process of re-performing or otherwise curing the grounds for the County's rejection.

15.7 Ownership of Intellectual Property.

- a. **Rights in Work Product.** Unless otherwise noted in the terms and conditions of this contract, all intellectual property originated or prepared by Contractor pursuant to the contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the contract, shall be considered work product and shall be the exclusive property of Contractor, provided that County has Government Purpose Rights to that work product as and when it was delivered to County.
 - (1) "Government Purpose Rights" are: (i) the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which the County is a party; (ii) the right to release or disclose that work product to third parties for any County purpose; and (iii) the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any County purpose; such recipients being understood to include the federal government, the state government, and various local governments.
 - (2) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.
- b. **Joint Developments.** The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
- c. **Pre-Existing Material.** All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the contract or applicable purchase orders are not part of the work product to which rights are granted as stated above, and will remain the exclusive property of Contractor, provided that:
 - (1) Any derivative works of such pre-existing material or elements thereof that are created pursuant to the contract are part of that work product;
 - (2) Any elements of derivative work of such pre-existing material that was not created pursuant to the contract are not part of that work product; and



- (3) Except as expressly stated otherwise in the contract, nothing in the contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.
- d. **Developments Outside of Contract.** Unless expressly stated otherwise in the Terms and Conditions, the contract does not preclude Contractor from developing competing materials outside the contract, irrespective of any similarity to materials delivered or to be delivered to the County hereunder.
- 15.8 **Subcontracts.** The Contractor shall not enter into any subcontract under this contract for the performance of this contract without the advance written notice to the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. It is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees or agents of the Contractor and not the County. Nothing contained in any contract or joint venture agreement shall create any contractual relationships between any subcontractor and County, nor shall the same create any obligation on the part of the County to pay any subcontractor. The subcontract shall incorporate by reference the terms and conditions of this contract.
- 15.9 **Non-Discrimination.** Contractor shall comply with the State of Arizona Executive Order No. 2009-09 and all other applicable federal, state and local laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.
- 15.10 **E-Verify Requirements.** As required by A.R.S. § 41-4401, Contractor and each subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each subcontractor acknowledge that under A.R.S. § 41-4401, the County retains the legal right to inspect the papers of any Contractor or subcontractor employee who works under the contract to ensure that Contractor or subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- 15.11 **Offshore Performance of Certain Work Prohibited.** Any services that are described in the specifications or Scope of Work that directly serve the County or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services, services performed through remote access to the County network, or services that are incidental to the performance of the contract. This provision applies to work performed by Subcontractors at all tiers. Responders shall declare all anticipated offshore services in the proposal.
- 15.12 **Estimated Quantities.** Unless expressly stated otherwise in the solicitation, the (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on orders; (b) County makes no commitment of any kind concerning the quantity or monetary value of activity, work or services actually initiated or completed during the term of the contract; (c) Contractor shall only deliver or perform as authorized by orders; and (d) County is not limited as to the number of orders it may issue for the contract.



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- 15.13 Non-Exclusivity. This contract is entered into with the understanding and agreement that it is for the sole convenience of Pinal County. The County reserves the right to obtain like materials or services from another source when necessary without penalty or obligation. The County reserves the right to make additional awards by aggregate, line item, regional area, or any other division of goods and services as determined to be in the best interest of the County.
- 15.14 Additions and Deletions to Contract. The County reserves the right to add and/or delete goods or services to the Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.
- 15.15 Applicable Taxes. The Contractor shall be responsible for paying all applicable taxes. Pinal County is subject to all applicable state and local transaction privilege taxes. The County is exempt from certain federal excise tax on manufactured goods. The County will provide the necessary exemption certificates as evidence. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with County unless not required by law.
- 15.16 Eligible Agencies. This contract shall be for the permissive use by Pinal County. The County has entered into various cooperative purchasing agreements with other Arizona government entities in order to conserve resources, reduce overhead and purchase costs and improve delivery time. The contract resulting from this Solicitation may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of the Contractor. Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The County shall not be responsible for any disputes arising out of transactions made by others. Contractor shall sell to cooperative entity at the same price and on the same lead times and other terms and conditions on which it sells to the County, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the cooperative entity is having materials delivered or installed or services performed at locations not contemplated in the contracted pricing (e.g. delivery at a location outside Arizona).
- 15.17 Transitions. During commencement of the contract the Contractor shall attend transition meetings with outgoing suppliers as requested by the County to coordinate efforts, ease the transition, and minimize disruption in the County's operations. The County may elect to have outgoing suppliers complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible, even if that scope is covered under the contract with the new supplier. Conversely, the County anticipates having a continued need for the same materials and services upon expiration or earlier termination of the contract. Accordingly, Contractor shall work closely with any new (incoming) supplier and the County to ensure a smooth and complete transfer. The County's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both the existing Contractor and the



incoming supplier. During the outgoing transition, the County may elect to have the outgoing Contractor complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible.

- 15.18 Other Contractors. The County may undertake with its own resources or through award of other contracts to the same or other suppliers, additional or related work. In such cases, the Contractor shall cooperate fully with the County's employees and other suppliers and carefully fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the contract requires handing-off Contractor's work to others, Contractor shall cooperate as the County instructs regarding the necessary transfer of its work product, services, or records to the County or the other suppliers. Contractor shall not commit or permit any act that interferes with the County's or other suppliers' performance of their work, provided that, the County shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 15.19 Work on County Premises.
- a. Compliance with Rules. Contractor is responsible for ensuring that its personnel comply with County's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing materials or performing services on County grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the contract. Contractor is reminded that violation under Pinal County Security policy 2.10 to possess a firearm, ammunition, or an explosive device in a County building is a material breach of contract and grounds for termination for default.
 - b. Protection of Facilities and Grounds. Contractor shall deliver or install the materials and perform the services without damaging any County facilities or grounds. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions the County needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, the County will be entitled to exercise its remedies under paragraph 17.5 "Right to Offset."
- 15.20 Advertising, Publishing, and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this contract without the prior written approval of the Procurement Officer.
- 15.21 Israel Boycott Prohibited. Pursuant to A.R.S. § 35-393.01(A) and to the extent allowable by law, if the Contractor engages in for-profit activity and has ten (10) or more employees, and if this agreement has a value of \$100,000 or more, the Contractor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.



- 15.22 Use of Forced Labor of Ethnic Uyghurs Prohibited. Pursuant to A.R.S. § 35-394, the use of forced labor, any goods produced by forced labor or contractors or subcontractors that utilize the forced labor of Ethnic Uyghurs in the People's Republic of China is prohibited. Written certification that the contractor complies with this provision shall be submitted to the County. If written certification has been submitted, and the contractor later determines that it is not in compliance with this provision, it shall notify the County within five (5) business days. If the County does not receive notification that within one hundred and eighty (180) days of finding the violation, the company has remedied the violation of this section, the contract will terminate. If the contract naturally or otherwise terminates before the end of the one hundred and eighty (180) day remedy period, the contract terminates on the contract termination date.

16. PERFORMANCE OF WORK:

- 16.1 Job Order Agreement. Performance of the Work shall be undertaken only upon the issuance of written Job Order Purchase Orders by the County. Job Orders shall be in accordance with the requirements specified in the Statement of Work and shall set forth, with the necessary particularity, the following:

- a. Contract number along with the Job Order Contractor's name;
- b. Job Order number and date;
- c. The agreed Work and applicable technical specifications and drawings;
- d. The agreed period of performance and, if required by the County, a work schedule;
- e. The place of performance;
- f. The agreed total price for the Work to be performed;
- g. Submittal requirements;
- h. The County's authorized representative who will accept the completed Work;
- i. Signatures by parties hereto signifying agreement with the specific terms of the Job Order; and
- j. Such other information as may be necessary to perform the work.

16.2 Job Order Contractor Duties and Obligations.

- a. 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. The county will reimburse Contractor for the actual, documented costs of construction permits required for the performance of the Work. Contractor shall also be responsible for all damages to persons or property that occur as a result of 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. 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.
- b. Self-Performance by the Job Order Contractor. The Job Order Contractor 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 County.
- c. Jobsite Superintendent. During performance of a Job Order and until the Work is completed and accepted, Contractor shall directly superintend the Work or assign a competent superintendent who will

supervise the performance of Work and is satisfactory to the County and has authority to act for Contractor.

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 County's project manager.

- d. **Construction Layout.** 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. Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to layout any part of the Work. Contractor shall also be responsible for maintaining and preserving all control points established by the County.
- e. **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 County Engineer or his/her designee. 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 cost to the County. Contractor and his sureties shall be liable for correct replacement of disturbed survey benchmarks except where the County elects to replace survey benchmarks using their own forces.
- f. **Traffic Regulations.** All traffic affected by this construction shall be regulated in accordance with City of Phoenix – Traffic Barricade manual, latest edition.

At the time of the pre-construction meeting, 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 measures as necessary. At the same time the County will designate a representative who will be responsible to see that all traffic control and any alternations are implemented and monitored to the extent that traffic is carried throughout the work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazards and accidents.

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

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.

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.



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 County at least forty eight (48) hours in advance for County personnel to temporarily relocate said signs. The County Engineer or designee 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.

When determined necessary by the Contractor, an off-duty Pinal County Sheriff Deputy shall be used for traffic control. Pinal County uses Off Duty Management for scheduling of off duty deputies. Contractors must use the following link <https://odm.officertrak.com/Pinal-Co-AZ-SO/auth/signin?next=%2F> to arrange for off duty deputies and view hourly rates.

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

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.

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

No street within the project may be closed to through traffic or to local emergency traffic without prior written approval of the County Engineer. 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 County Engineer.

Caution should be used when excavating near intersections with traffic signal underground cable. Notify the County 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 County Engineer when underground conduit is to be severed by excavations at intersections. The Contractor shall provide an off duty Sheriff's Deputy 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 County Engineers satisfaction. Magnetic detector loops shall under no circumstances be spliced.

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

Where crossings of existing pavement occur, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow as determined by the County Engineer or his/her designee. If plates cannot be used, crossings shall be back-filled or the Contractor shall provide a detour.



- g. **Operations & Storage.** Contractor shall confine all operations (including storage of materials) to areas authorized by the County.
- h. **Cleaning Up & Refuse Disposal.** Contractor shall at all times keep the site, including storage areas, free from accumulations of waste materials. Before completing the Work, Contractor shall remove from the premises any rubbish, tools, scaffolding, equipment and materials that are not the property of the County. Upon completing the Work, Contractor shall leave the site in a clean and orderly condition satisfactory to the County.

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

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

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

- i. **Existing Improvements and Utilities.** Contractor shall protect from damage all existing improvements and utilities to or near the site and on adjacent property of third parties, the locations of which are made known to or should be known by the Contractor. 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 Contractor fails or refuses to repair the damage promptly, the County may have necessary repair work performed and charge the cost to the Contractor.
- j. **Safety.** Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act 1970 (OSHA), all applicable state and local laws, ordinances and regulations during the performance of the Work. Contractor shall indemnify the County for fines, penalties and corrective measures that result from the acts of commission or omission of Contractor, its subcontractors, if any, agents, employees and assigns and its failure to comply with such safety rules and regulations.

The County reserves the right to approve and monitor the 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.

16.3 Owner Rights and Obligations.

- a. **Suspension of Work.** Owner may order Contractor, in writing, to suspend, delay or interrupt all or any part of the Work for a period of time that the County determines reasonably appropriate.

If the performance of all or any part of the Work is suspended, delayed or interrupted by an act of the County in the administration of a Job Order or by the County'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.

A claim under this paragraph shall not be allowed for any costs incurred more than thirty (30) calendar days before Contractor shall have notified the County 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.

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

While the County has such possession or use, Contractor shall be relieved of the responsibility for the loss of or damage of the Work resulting from the County's possession or use. Notwithstanding the terms of subparagraph 15.2.a. If prior possession or use by the County delays the progress of the Work or causes additional expenses to the 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.

- c. **Other Contracts.** The County may undertake or award other Contracts for additional work at or near the site of Work under this contract. Contractor shall fully cooperate with the other Contractors and with the County'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 the County. Contractor shall not commit or permit any act that will interfere with the performance of its Work by any other contractor or by County employees.
- d. **Job Order Amendment.** Job Orders may be amended by the County in the same manner as they are issued.
- e. **Job Order Value.** The maximum Job Order value is Two Million Dollars (\$2,000,000), except as provided in A.R.S. § 34-605.

17. JOB ORDER DOCUMENTS.

- 17.1 **Specifications and Drawings.** Anything mentioned in the specifications and not shown in 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 the County, who shall promptly make a determination in writing. Any adjustment by Contractor without such a determination shall be at its own risk and expense. The County shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.



- 17.2 **Shop Drawings.** Shop drawings include sketches, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by Contractor to explain in detail specific portions of the Work. The County may duplicate, use and disclose in any manner and for any purpose shop drawings delivered under this Contract. Shop drawings means drawings submitted to the County by the Contractor showing in detail:
- a. The proposed fabrication and assembly of structural elements;
 - b. The installation (i.e. form, fit and attachment details) of materials or equipment, and
 - c. The construction and detailing of elements of the Work.
- 17.3 **Shop Drawing Coordination.** 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 the County without evidence of Contractor's approval may be returned for resubmission. The County will indicate its approval or disapproval of the shop drawings and if not approved as submitted shall indicate County's reason therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the County shall not relieve 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 §17.4 below.
- 17.4 **Shop Drawing Modification.** If shop drawings show variations from the Job Order requirements, 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 used.
- 17.5 **Shop Drawing Omissions.** Omissions from the drawings or specifications or the misdescription 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 Contractor from performing such omitted or misdescribed details of the Work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.
- 17.6 **Owner Furnished Drawings.** Contractor shall check all County furnished drawings immediately upon receipt and shall promptly notify the County of any discrepancies. Any errors or omissions in the County furnished drawings are the responsibility of the County to rectify, including associated costs. Figure marked on drawings shall be followed in preference to scale measurements. Large scale drawings shall govern small scale drawings. 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.
- 17.7 **Shop Drawing Submittal.** Contractor shall submit to the County 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 the County and one set will be returned to the Contractor with annotation of approval or rejection within one (1) week after submission, unless a longer review period is necessary by mutual agreement between the County and the Contractor.



17.8 Use of Job Order Documents. All drawings (to include as-built drawings), sketches, designs, design data, specifications, notebooks, technical and scientific data provided to Contractor or developed by 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 hereof, shall be the property of the County and may be used by the County without any claim by the Contractor for additional compensation, unless such material developed by Contractor does not result in an issued Job Order. In such cases, Contractor will receive reasonable reimbursement for the development of such materials before the County uses them in any manner whatsoever. In addition, the County agrees to hold the Contractor harmless to the extent permitted by law from any legal liability arising out of the County's use of such material.

18. CONTRACT CHANGES.

18.1 Contract Amendments. The contract is issued under the authority of the Pinal County Board of Supervisors. Only a contract amendment can modify the contract and then only if it does not change the contract's general scope. Purported changes to the contract by a person not expressly authorized by the Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the contract based on any such purported changes.

18.2 Signing of Contract Amendments. Contractor's counter-signature (or "approval") of contract modifications is not required to give effect if the contract amendment only covers either:

- a. Extension of the term of the contract within the maximum aggregate term;
- b. Revision to Procurement Officer appointment or contact information; or
- c. Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the contract.

In every case other than those listed in a, b, and c above, both parties' signature (or "approval") of a contract modification is required to give it effect.

18.3 Assignment and Delegation. Contractor shall not assign in whole its rights or delegate in whole its duties under the contract without the Procurement Officer's prior written consent, which consent the Procurement Officer may withhold at his or her discretion. The Procurement Officer shall not unreasonably withhold approval of assignment or delegation. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving County satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when County first awarded it the contract. This contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto.

19. JOB ORDER CHANGES.



PINAL COUNTY

- 19.1 County Changes. The County may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes to the Work within the general scope of the Job Order, including changes:
- In the specifications (including drawings and designs);
 - In County furnished facilities, equipment, materials, services, or site; or
 - Directing acceleration in the performance of the Work, or otherwise altering the schedule for performance of the Work.
- 19.2 County Change Orders. Any other written order (which, as used in this paragraph, includes direction, instruction, interpretation or determination) from the County that causes a change shall be treated as a change order under this section; provided, that the Contractor gives the County timely written notice stating the date, circumstances and source of the order that Contractor regards the order as a change order.
- 19.3 Contract Adjustments. Except as provided in this section, no order, statement or conduct of the County shall be treated as a change under this section or entitle Contractor to an equitable adjustment hereunder.
- 19.4 Modification of the Job Order. If any change under this section causes an increase or decrease in 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, the County shall negotiate an equitable adjustment and modify the Job Order in writing.
- 19.5 Contractor Proposals. Contractor must submit any proposal under this section within thirty (30) calendar days after:
- Receipt of a written change order under §18.1 above; or
 - The furnishing of a written notice under § 18.2 above by submitting to the County a written statement describing the general nature and amount of the proposal, unless this period is extended by the County. The statement of proposal for adjustment may be included in the notice under §18.2 above.
- 19.6 Final Payment Limitation. No proposal from the Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Job Order.
- 19.7 Contract Extension Justification. The Contractor shall furnish to the County 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.
- 19.8 Contractor Price Breakdown Structure. Contractor, in connection with any proposal it makes for a Job Order change, shall furnish a price breakdown itemized as required by the County and the pricing matrix as required in the awarded contract.

20. ARS TITLE 34 PROVISIONS.

- 20.1 Individual Job Order Amount. The maximum dollar amount of an individual job order shall be Two Million Dollars (\$2,000,000) or such higher or lower amount prescribed by the County in an action noticed pursuant to ARS Title 38, Chapter 3, Article 3.1 or a rule adopted by the County as a 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.



20.2 Subcontractors. If the 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:

- a. The Contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the Contractor to do all or part of the Work under one or more Job Orders:
 - (1) A copy of the description of all standard individual tasks on which the subcontractor is invited to bid.
 - (2) A copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.
- b. If not previously delivered to the subcontractor, the Contractor has a duty to delivery promptly the following to each subcontractor invited to, or that has agreed to, do any of the Work included in any Job Order:
 - (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.
 - (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.
 - (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.
- c. The County 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 Contractor (and on behalf of each subcontractor at any level) hereby agrees to include in each of its subcontracts the same address information. The Contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location

21. RISKS AND LIABILITIES

- 21.1 Risk of Loss. Contractor bears all risk of loss to materials while in pre-production, production, storage transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the Scope of the Work, until they have been received and accepted as conforming by the County at the location designated in the purchase order or contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 21.2 Contractor Insurance. The Contractor and any tier of Subcontractor shall purchase and maintain insurance, until all of their obligations have been discharged including any warranty periods under this contract, against claims for injury to persons or damage to property which may arise from or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees, or



Subcontractors. Failure to do so may, at the sole discretion of the County, constitute a material breach of the contract.

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

a. **Minimum Scope and Limits of Insurance.** Contractor shall purchase and maintain coverage with coverages and limits of liability not less than those stated below.

- (1) **Commercial General Liability (CGL).** Commercial General Liability Insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 General Aggregate Limit, and \$2,000,000 Completed Operations/Products Aggregate. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations, XCU and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. The additional insured endorsement shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor's work or service.

- (2) **Automobile Liability.** Commercial/Business Automobile Liability insurance with a combined single limit (CSL) for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this contract.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor, and shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor’s work or service.

(3) Workers’ Compensation and Employer’s Liability.

Workers’ Compensation	Statutory
Employer’s Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Policy shall contain a waiver of subrogation against Pinal County and its officers, officials, agents, and employees for losses arising from work or service performed by or on behalf of the Contractor. This requirement shall not apply to each Contractor this is exempt under A.R.S. 23-902(E), and when such Contractor executes the appropriate sole proprietor waiver form.

(4). Professional Liability (Errors and Omissions Liability), for projects involving a Design Professional. Coverage in an amount not less that \$1,000,000 each claim and \$1,000,000 aggregate. The policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those services as defined in the Scope of Work of this contract.

b. Additional Insurance Requirements. The policies shall include, or be endorsed to include the following provisions:

(1) The Contractor’s policies, as applicable, shall be primary and noncontributory with respect to any self insurance or insurance carried by the County, its agents, officials, or employees. .

(2) Insurance provided by the Contractor shall not limit the Contractor’s liability assumed under the indemnification provisions of this contract.

c. Notice of Cancellation. Applicable to all insurance policies required within the insurance requirements of this contract, Contractor’s insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the County.

d. Acceptability of Insurers. Contractor shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best rating of not less than A-6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of the County. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

e. Verification of Coverage. Contractor shall furnish the County with certificates of insurance or formal endorsements as required by the contract at least fourteen (14) calendar days prior to commencing work or services under the contract. Such certificates shall identify this contract number and project



description and shall be sent directly to the attention of Pinal County Purchasing Department. In the event any insurance policy(ies) required by this contract are written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life of the contract, a renewal certificate must be sent to the County a minimum of fourteen (14) calendar days prior to the expiration date. The form of any insurance policies, limits, endorsements and forms must be acceptable to the County. The County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

- f. Subcontractors. All coverages for all tiers of Subcontractors shall be subject to the minimum insurance requirements identified above. The County reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its Subcontractors have the required coverage.
- g. Approval and Modifications. The County reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal contract amendment but may be made by administrative action.

21.3 Basic Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County indemnitees from indemnified basic claims that:

- a. Are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor indemnitor;
- b. Arise out of or are recovered under workers' compensation laws; and/or
- c. Arise out of a Contractor indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor indemnitors shall indemnify the relevant County indemnitees from and against indemnified basic claims in all instances except where the indemnified basic claim arises solely from those County indemnitees' own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for an on behalf of the other Contractor indemnitors with respect to County indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor indemnitors. In consideration of the award of the contract by a County indemnitee, Contractor hereby waives all rights of subrogation against County indemnities for losses arising from the work.
- d. It is the specific intention of the County and the Contractor that the County shall, in all instances, except for the gross negligent or willful acts of the County, be indemnified, defended and held harmless by the Contractor from and against any all demands, claims, suits, losses, and damages.

21.4 Patent and Copyright Indemnification. With respect to materials or services provided or proposed by a Contractor indemnitor for performance under the contract, Contractor shall indemnify, defend and hold



PINAL COUNTY

harmless County indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the materials and the services. With respect to the defense and payment of claims under this subparagraph:

- a. County shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
- b. Contractor, with reasonable consultation from County shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
- c. County may elect to participate in such action at its own expense; and
- d. County may approve or disapprove any settlement or compromise, provided that the County shall not unreasonably withhold or delay such approval or disapproval; and the County shall cooperate in the defense and in any related settlement negotiations.

21.5 Force Majeure.

- a. **Relief From Performance.** The parties are not liable to each other if an occurrence of force majeure prevents its performance under the contract. If either party is delayed at any time in the progress of its performance under the contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties will extend the time of completion by contract amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.
- b. **Excusable Delay is Not a Default.** Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.
- c. **Default Diminishes Relief.** Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case the other party's normal remedies and the affected party's obligations would apply undiminished.

21.6 Third Party Antitrust Violations. The Contractor assigns to the County any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this contract.

22. WARRANTIES



22.1 Liens. Contractor warrants that the materials and services when accepted will be and will remain free of liens or other encumbrances.

22.2 Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the contract, the materials and services will for one (1) year after acceptance and in each instance:

- a. Conform to the requirements of the contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the contract;
- b. Be free from defects of material and workmanship;
- c. Conform to or perform in a manner consistent with current industry standards; and
- d. Be fit for the intended purpose or use described in the contract.

Mere delivery or performance does not substitute for express acceptance by County. Where inspection, testing, or other acceptance assessment of materials or services cannot be done until after installation, the foregoing warranty will not begin until County's acceptance.

22.3 Product Safety. Materials as shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, the County is not responsible for making any materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

22.4 Contractor Personnel. Contractor warrants that its personnel will perform their duties under the contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to the County upon request.

22.5 Data Protection and Confidentiality of Records.

- a. Proprietary and Sensitive Data. Contractor warrants that it will establish and maintain procedures and controls acceptable to the County for ensuring that the County's proprietary and sensitive data is protected from unauthorized access and information obtained from County or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the contract, provided to the Contractor by the County or prepared by others for the County are proprietary to the County and all information by those same avenues is the County's confidential information. To comply with the foregoing warrant:

- (1) Contractor shall: (i) notify the County immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (ii) cooperate with the County to identify the source or cause of and respond to



each unauthorized access or inappropriate disclosure; and (iii) notify the County promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and

(2) Contractor shall not: (i) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the contract, unless the County has agreed otherwise in advance and in writing; or (ii) respond to any requests it receives from a third party for such data or information, and instead route all such requests to the County's designated representative.

b. **Personally Identifiable Information.** Contractor warrants that it will protect any personally identifiable information ("PII") belonging to the County's employees' or other Contractors or members of the general public that it receives from the County or otherwise acquires in its performance under the contract. (For purposes of this paragraph PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information.)

NOTE: For convenience of reference only, the OMB memorandum is available at:

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2007/m07-16.pdf>.

NOTE: For convenience of reference only, the GSA directive is available at:

<http://www.gsa.gov/portal/directive/d0/content/658222>

c. **Protected Health Information.** Contractor warrants that, to the extent performance under the contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

(1) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (i) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (ii) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (iii) the County's current and published PHI/ePHI privacy and security policies and procedures;

(2) Will cooperate with the County in the course of performing under the contract so that both the County and Contractor stay in compliance with the requirements above and will sign any documents that are reasonably necessary to keep both the County and Contractor in compliance with the requirements above, in particular "Business Associate Agreements" in accordance with the Privacy Rule. NOTE: For convenience of reference only, the Privacy Rule is available at:

<http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

22.6 **Intellectual Property.** Contractor warrants that the materials and services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.



- 22.7 Compliance with Applicable Laws, Licensing and Permits. Contractor warrants that the materials and services supplied under this Contract do and will continue to comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 22.8 Lobbying. Contractor warrants that it will not engage in lobbying activities as defined in 40 CFR part 34 and A.R.S. § 41-1231, *et seq.*, using monies awarded under the contract. Upon award of the Contract, Contractor shall disclose all lobbying activities to the County to the extent they are an actual or potential conflict of interest or where such activities would create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure that monies awarded under the contract are not used for lobbying. Subcontractors shall be subject to these same provisions. Contractor shall include “anti-lobbying” provisions in all subcontracts. This paragraph does not apply to the extent that the services are defined in the contract as being lobbying for the County’s benefit or on the County’s behalf.
- 22.9 Survival of Rights and Obligations. All representations and warranties made by Contractor under the contract will survive the expiration or earlier termination of the contract. The Contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.

23. COUNTY’S CONTRACTUAL REMEDIES

- 23.1 Right to Assurance. If the County in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the County’s option, be the basis for terminating the contract under the Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 23.2 Stop Work Order. The County may at any time require Contractor to stop all or any part of the work by written order. Upon receipt of a stop order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to County associated with the portions of the work covered by the order. If Contractor incurs losses, it may make a claim under the Pinal County Procurement Code.
- 23.3 Non-exclusive Remedies. The County’s rights and remedies under the contract are not exclusive.
- 23.4 Nonconforming Tender. The materials provided and services performed must comply fully with the contract. Providing materials or performing services or any portion thereof that do not comply fully constitutes a breach of contract, in which event the County will be entitled to exercise any remedy available to it under the contract or laws.
- 23.5 Right to Offset. The County is entitled to offset against any sums due contractor, any expenses or costs the County incurs, or damages the County assessed concerning Contractor’s non-conforming performance or failure to carry out the work, including any expenses, costs, and damages to which it is entitled by the contract or laws.



24. CONTRACT TERMINATION

- 24.1 Termination for Conflict of Interest. Pursuant to A.R.S. § 38-511, the County may terminate this contract within three (3) years after the effective date without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is or becomes an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. Any such termination will be effective when Contractor receives the County's written notice of the termination unless the notice specifies a later date. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 24.2 Gratuities. The County may by written notice, terminate the contract in whole or in part if the County determines that employment or a gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of the County for the purpose of influencing the outcome of the procurement or the administration of the contract, or in anticipation of receiving any favorable treatment concerning the contract or performance of the contract. The County, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by Contractor.
- 24.3 Suspension or Debarment. The County may, by written notice to Contractor, terminate the contract immediately if the County discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. The County has taken Contractor's submittal of the accepted offer and will take its performance under the contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify the Procurement Officer immediately.
- 24.4 Termination for Convenience. The County may terminate the contract when in the best interest of the County, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the contract. Upon receipt of the County's written termination notice, Contractor shall stop work as directed in the notice, notify all subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to the County. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract will become the County's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination.
- 24.5 Termination for Default. In addition to the rights reserved to it under the contract, the County may terminate the contract in whole or in part due to Contractor's failure to:
- a. Comply with any requirement, term, or condition of the contract;



- b. Obtain and maintain all required insurance policies, bonds, licenses, and permits;
- c. Make satisfactory progress in carrying out the work; or
- d. Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

25. CONTRACT CLAIMS

- 25.1 Claim Resolution. All claims and controversies shall be subject to the Pinal County Procurement Code.
- 25.2 Arbitration. It is understood and agreed that no provision of any resulting contract shall require arbitration upon the County except by the County's express written consent given subsequent to the execution of the contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. § 12-1501, *et seq.* The Contractor shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.



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This agreement and exhibits hereto, as well as any purchase orders issued against this agreement, shall constitute the entire agreement between the parties with respect to the goods or services ordered under this agreement. No amendment to this agreement will be effective or binding upon the parties unless set forth in writing.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PINAL COUNTY
31 N. Pinal Street
Florence, AZ 85132


DCS CONTRACTING, INC.
11535 E. Germann Road
Chandler, AZ 85286


BY: Jeff Serdy
(Name)

BY: 480-732-9238 / Brandon Byrne
(Name)

Chairman
(Title)

G.M. of Construction
(Title)


(Signature)


(Signature)

DATE: June 7, 2023

DATE: 05/08/2023

Approved as to Legal Content:

 5/11/23
Pinal County Attorney's Office (Date)

Attachment A
Federal Certifications
Addendum for Agreements Funded by U.S. Federal Grant

Source of Funding:

Catalog of Federal Domestic Assistance (CFDA) Number: # **XX.XXX**
[Link to program: XXXX](#)

References:

Code of Federal Regulations (“CFR”), Title 2, Part 200 Uniform Requirements:

- CFR, Title 2: Grants and Agreements PART 200: [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
- Supplemented by the Department of Justice: [2 CFR Part 2800](#)

Federal Grants Financial Guide: [DOJ Financial Guide](#)

Definitions:

Allocable Costs. See 2 CFR § 200.405 Allocable costs.

- (a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:
 - (1) Is incurred specifically for the Federal award;
 - (2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
 - (3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.
- (b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.
- (c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two



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or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

- (d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also 2 CFR §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship) and 200.439 (Equipment and other capital expenditures).
- (e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.

Allowable Costs. See 2 CFR § 200.403 Factors affecting allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also 2 CFR § 200.306 (Cost sharing or matching) paragraph (b).
- (g) Be adequately documented. See also 2 CFR §§ 200.300 (Statutory and national policy requirements) through 200.309 (Modifications to Period of performance).

Catalog of Federal Domestic Assistance (CFDA) Number. A five-digit number assigned by the Federal Awarding Agency in the awarding document of most grants and cooperative agreements funded by the Federal government.



Construction Work. The regulation at 41 CFR § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Contract. A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

Contractor. An entity that receives a contract as defined in Contract.

Cooperative Agreement. A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 USC §§ 6302–6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 USC § 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
 - (1) A cooperative research and development agreement as defined in 15 USC § 3710a; or
 - (2) An agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (iv) A loan guarantee; or
 - (v) Insurance.

Federally Assisted Construction Contract. The regulation at 41 CFR § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Federal awarding agency. The Federal agency that provides a Federal award directly to a non-Federal entity

Federal Award. Depending on the context, in either paragraph (a) or (b) of this section:



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- (a) (1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in 2 CFR § 200.101 (Applicability); or

(2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in 2 CFR § 200.101 (Applicability).
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of 2 CFR § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a Contractor or a contract to operate Federal government owned, Contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Funding Agreements. The regulation at 37 CFR § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any Contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

Non-Federal entity. A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization. Any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations. When used in connection with a non-Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Pass-through entity. A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Reasonable Costs. See 2 CFR § 200.404 Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

Recipient. A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold. The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR, Part 2, Subpart 2.1 (Definitions) and in accordance with 41 USC § 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation. (Also see definition of 2 CFR § 200.67 (Micro-purchase)).

Subaward. An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subcontractor. Legal entity that enters into subcontract with a "Contractor."

Subrecipient. A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination. The ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.



Federal Grant Provisions:

The following certifications and provisions may be required and apply when Pinal County expends federal funds for any purchase. Pursuant to 2 CFR § 200.327, all contracts, including small purchases, awarded by Pinal County and Pinal County' Subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

1. **Termination for Default.** Pinal County reserves all rights and privileges under the applicable laws and regulations with respect to this contract in the event of breach of contract. Pursuant to 2 CFR Part 200, Appendix II, paragraph (B), the County may terminate the contract in whole or in part for cause due to Contractor's failure to:

- (a) Comply with any requirement, term, or condition of the contract;
- (b) Obtain and maintain all required insurance policies, bonds, licenses, and permits;
- (c) Make satisfactory progress in carrying out the work; or
- (d) Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

2. **Termination for Convenience.** Pursuant 2 CFR Part 200, Appendix II, paragraph (B), when Pinal County expends federal funds, Pinal County reserves the right to immediately terminate any contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted before the effective date of termination.
3. **Equal Employment Opportunity.** Pursuant to 41 CFR, Chapter 60, Part 60-1, the Contractor agrees as follows during the performance of this contract:
 - (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:



PINAL COUNTY

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 setting forth the provisions of this nondiscrimination clause.

- (b) 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, sexual orientation, gender identity, or national origin.
- (c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (d) 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 advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) 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.
- (f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction 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.
- (h) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and Subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. Compliance with Davis-Bacon Act. Pursuant to the Davis-Bacon Act (40 USC §§ 3141-3148) as supplemented by Department of Labor regulations at 29 CFR Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction) and 2 CFR Part 200, Appendix II(D), Contractor agrees as follows during the performance of this Contract:
 - (a) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 USC §§ 3141- 3144, and 3146-3148) and the applicable requirements of 29 CFR pt. 5. The Contractor shall comply with 40 USC §§ 3141-3144, and 3146-3148 and the applicable requirements of 29 CFR pt. 5.



PINAL COUNTY

- (b) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (c) Additionally, Contractors are required to pay wages not less than once a week

Reference link for Labor Standards <https://www.hud.gov/sites/documents/4010.PDF>

5. Compliance with the Copeland "Anti-Kickback" Act. Pursuant to the Copeland "Anti-Kickback" Act (40 USC § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), Contractor agrees as follows during the performance of this contract:
 - (a) Contractor. The Contractor shall comply with 18 USC § 874, 40 USC § 3145, and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract.
 - (b) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Awarding Agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all of these contract clauses.
 - (c) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 CFR § 5.12."
6. Compliance with the Contract Work Hours and Safety Standards Act. Pursuant to 40 USC §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 CFR Part 5 (see 2 CFR Part 200, Appendix II (E)), Contractor agrees as follows during the performance of this Contract:
 - (a) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - (b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

(c) Withholding for unpaid wages and liquidated damages. Pinal County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

(d) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

7. Compliance with Section 3 Requirements. Pursuant to 24 CFR § 135.38, Contractor agrees as follows during the performance of this Contract. Contractor will be required to submit Section 3 compliance forms within three (3) days of contract award.

(a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low - and very low-income persons in the project area.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled: 1) after the contractor is selected but before the contract is executed; and 2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
 - (f) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.
8. Rights to Inventions Made Under a Contract or Agreement. Contractor agrees to comply with the requirements of 37 CFR Part 401, 2 CFR § 200, Appendix II (F), and any other applicable regulations issued by the Federal Awarding Agency during the performance of this contract.
9. Clean Air Act. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC § 7401 *et seq.*
- (a) The Contractor agrees to report each violation to Pinal County and understands and agrees that Pinal County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - (b) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal Awarding Agency.
10. Federal Water Pollution Control Act. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251 *et seq.*
- (a) The Contractor agrees to report each violation to Pinal County and understands and agrees that the Pinal County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - (b) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal Awarding Agency.
11. Suspension and Debarment. Pursuant to Executive Orders 12549 and 12689, Pinal County may, by written notice to Contractor, immediately terminate this Contract if Pinal County determines that the Contractor has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body. Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of this contract, the Contractor or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the Contractor will notify Pinal County.

Contractor agrees to comply with the following during the performance of this contract.



- (a) This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of the Contractor's *principals* (defined at 2 CFR § 180.995) or its *affiliates* (defined at 2 CFR § 180.905) are *excluded* (defined at 2 CFR § 180.940) or *disqualified* (defined at 2 CFR § 180.935).
- (b) The Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (c) This certification is a material representation of fact relied upon by Pinal County. If it is later determined that the Contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (d) The Contractor agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

12. Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended). The Contractor agrees to comply with the following during the term of this Contract:

- (a) No Federal appropriated funds have been paid or will be paid for 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 a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (b) 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (d) The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 USC Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

13. Procurement of Recovered Materials. Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (See 42 USC §§ 6901 *et seq.*; and 2 CFR § 200.323) during the performance of this contract.
 - (a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
 - (b) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - (c) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
14. Fly Ash Certification. Contractor agrees to comply with the following during the performance of this contract.
 - (a) The percentage of fly ash in the concrete or cement is or will be consistent with the amounts required by the EPA Guidelines, Statutes, and/or Regulations for federally funded projects involving procurement of cement and/or concrete (Solid Waste Disposal Act; Resource Conservation and Recovery Act).
15. Fingerprint and Background Checks. In accordance with ARS § 15-512(H), a Contractor, Subcontractor or vendor, any employee of a Contractor, Subcontractor or vendor who is contracted to provide services on a regular basis at an individual school may be required to obtain a valid fingerprint clearance card pursuant to ARS §§ 41-1758 *et seq.*
16. Civil Rights Act of 1964, Title VI. Contractor agrees to comply with the Civil Rights Act of 1964, as amended, (42 USC § 2000d and 28 CFR § 42.101 *et seq.*) that provides no person on the basis of Race, Color, or National Origin shall be excluded from participation, denied program benefits, or subjected to discrimination.
17. Rehabilitation Act of 1973, Section 504. Contractor agrees to comply with Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 and 28 CFR §§ 42.501 *et seq.*), as amended, that no otherwise individual shall solely by reason of his or her handicap be excluded from participation and/or employment, denied program benefits, subjected to discrimination under any program receiving federal funds.
18. Age Discrimination Act of 1975. Contractor agrees to comply with the Age Discrimination Act of 1975 (42 USC §§ 6101-6107 and 28 CFR § 42.700 *et seq.*), as amended, that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funds.



19. Americans with Disabilities Act of 1990. Contractor agrees to comply with Title II of the Americans with Disabilities Act of 1990 (42 USC §§ 12131-12134 and 28 CFR pt. 35), as amended, that there shall be no employment discrimination against “qualified individuals with disabilities.”
20. Other Grant Specific Regulations. Contractor agrees to comply with the following during the performance of this contract.

[List here](#)

21. Access to records. The following access to records requirements apply to this contract:
- (a) The Contractor agrees to provide the State of Arizona, Pinal County, the Federal Awarding Agency Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - (b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - (c) The Contractor agrees to provide the Federal Awarding Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - (d) In compliance with the Disaster Recovery Reform Act of 2018, the Pinal County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Federal Awarding Agency Administrator or the Comptroller General of the United States.
 - (e) Contractor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The Contractor further certifies that Contractor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
22. Contract changes and amendments. There will be no oral changes to this Agreement. This Agreement can only be modified in a writing signed by both parties. Amendments agreed to by both parties may modify the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured. No charge for extra work or material will be allowed unless approved in writing, in advance, by the County and Contractor.
23. Uniform administrative requirements, cost principles, and audit requirements. Pinal County adheres to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for all federal awards included in 2 CFR Part 200. The federal cost principles require all costs for projects to be allowable, reasonable, and allocable. Therefore transparency of the cost proposal is required to ensure compliance.



24. Buy American provision. Contractor will purchase, to the maximum extent practicable, domestic commodities or products in accordance with 48 CFR § 52.225-1 through § 52.225-26 and 41 USC Chapter 83. The Contractor shall purchase, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States. "Substantially" means the final processed product contains over 51% domestically grown agricultural commodities. The provision applies to all food purchases paid from the nonprofit school food service account. There are limited exceptions to this provision, however before utilizing an exception, alternatives to purchasing non-domestic food products should be considered.

The County has preference for domestic end products for supplies acquired for the use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). Contractor certifies that it is in compliance with all applicable provisions of the Buy America Act.

Exceptions to the Buy American provision should be used as a last resort; exceptions include: (1) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities or of a satisfactory quality, or (2) costs of a U.S. product are significantly higher than the non-domestic product.

To be considered for the alternative or exception to the Buy American provision, the request must be submitted in writing to the designated Pinal County procurement official, a minimum of 7 days prior to delivery date. The request must include: (1) the alternative substitutes that are domestic and meet the required specifications, with price and (2) the reason for exception, with limited/lack of availability or price. If price, include the price of the domestic food product and the price of the non-domestic product that meets the required specifications of the domestic product.

25. Federal awarding agency seal, logo, and flags. The Contractor shall not use the Federal Awarding Agency seal(s), logos, crests, or reproductions of flags or likenesses of the Federal Awarding Agency officials without specific pre-approval from the Federal Awarding Agency.
26. Compliance with federal law, regulations, and executive orders. This is an acknowledgement that financial assistance provided by the Federal Awarding Agency will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, Federal Awarding Agency policies, procedures, and directives.
27. No obligation by federal government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.
28. Program fraud and false or fraudulent statements or related acts. The Contractor acknowledges that 31 USC Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

Contractor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that Contractor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.



PINAL COUNTY

DCS Contracting Inc.

Contractor Name

93-779-66505

Contractor DUNS #

11535 E. Germann Rd. Chandler, AZ 85286

Address, City, State, and Zip Code+4 (Use the following link if needed: <https://tools.usps.com/go/ZipLookup>)

480-732-9238 / Brandon Byrne

Phone Number and Email Address

Brandon Byrne, G.M. of Construction

Printed Name and Title of Authorized Representative

Signature of Authorized Representative

05/08/2023

Date

Exhibit A
Scope of Work

To be included as a separate exhibit to the contract.
The final Scope of Work (SOW) exhibit is the solicitation SOW including addenda and negotiated changes.

Exhibit B
Contract Pricing

To be included as a separate exhibit to the contract. Pricing reflects final negotiated contract pricing.



PINAL COUNTY

Exhibit C
Responder's Proposal

To be included as a separate exhibit to the contract. This exhibit is made up of the Responder's proposal. Clarification questions asked and supplier responses will be added as part of the Responder's proposal exhibit.

Exhibit A
Scope of Work (SOW)

The Contractor shall adhere to the following minimum specifications, performance requirements and all terms and conditions within this contract.

1. GENERAL REQUIREMENTS

The County maintains and constructs a network of civil infrastructure. The infrastructure includes, but is not limited to, paved streets, dirt roads, guardrails, parking areas, sidewalks, handicap ramps, curbs, gutters, trails, multi-use paths, park improvements, public utility infrastructure, bridges, culverts and basins. This Job Order Contract (JOC) will be focused on the maintenance repair and construction of such civil work within the public right of way. Work assignments may include but are not limited to, and the successful contractors shall have experience, knowledge and ability to accomplish the following tasks:

- 1.1 Obtain all necessary permits required to complete the job order assignment including, but not limited to; haul route, stockpile, SWPPP, dust control, traffic control plans, etc.
- 1.2 Placing asphalt pavements including full depth sections, overlays, patches and repairs.
- 1.3 Pavement maintenance and rehabilitation including, but not limited to; crack sealing and joint sealing, crack routing and large crack repair, applying various types of surface treatments including fog seal, scrub seal, slurry seal, chip seal, other asphalt rejuvenation methods, milling and/or roadway profiling, saw cutting and removing both asphalt and concrete pavements.
- 1.4 Subgrade preparation including compacting native soil, placing and compacting ABC, millings, soil stabilization and grading.
- 1.5 Earthwork: site rough and finishing grade.
- 1.6 Stamped, painted and thermoplastic decorative asphalt and concrete.
- 1.7 Replacing, removing, retro-fitting and/or placing concrete pavements including curb and gutter, driveways, roadways, handicap ramps, sidewalks, culverts, boxes, hard scape features and brick pavers.
- 1.8 Replacing, removing, retrofitting and/or placing ADA accessible features including handicap ramps and other improvements to meet ADA requirements.
- 1.9 Preparing traffic control plans, providing traffic set-up in accordance with the approved traffic control plans and barricading work areas.
- 1.10 Concrete, asphalt, granite or natural materials bikeways and/or multi-use paths.
- 1.11 Maintaining shoulders including grading, placement of surface treatment and sealing.



- 1.12 Flood Control construction, maintenance and repair items including, but not limited to, bridges, culverts, channels, basins, grading, erosion control, vegetation and sediment removal and concrete structures.
- 1.13 Fabricating, installing, removing, maintaining and surveying traffic control devices listed in the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD, Federal Highway Administration) and the current edition of the Arizona Supplement to the MUTCD (Arizona Department of Transportation). To include, but not limited to, signing and striping including, survey of existing striping and signage, providing and installing project signs, obliteration of striping, layout and installing striping, symbols, raised pavement markers and signage, traffic control signal systems including traffic signals and equipment, traffic loop detection, vaults, controllers and warning lights and signs.

2. PROJECT INFORMATION

- 2.1 The successful JOC contractors will have documented established successful work relationships with various qualified subcontractors and knowledge of JOC project delivery methods. The specific work associated with each job order assignment shall be mutually agreed upon and issued by the County.
- 2.2 For any project determined by the County to be appropriate for this Job Order Contract, the County will request that the contractor prepare a scope of work, cost proposal, project schedule and back-up supporting documentation. If acceptable, the County will issue a Job Order Purchase Order, which will specify the cost and completion schedule for that project as agreed by the parties. Although the County 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 county reserves the right and will issue job order assignments based on the ability of the contractor to meet the County's work schedule and the availability of trades and expertise in relation to each project.
- 2.3 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), Standard Specifications and Details for road and Bridge Construction published by Arizona Department of Transportation (ADOT), Manual on Uniform Traffic Control Devices (MUTCD) published by Federal Highway Administration (FHWA), and the construction documents (plans and specifications) associated with each Job Order assignment.

3. WORK AUTHORIZATION

Any Work required under this Contract shall be authorized by issuances of a formal, written Job Order Purchase Order as follows:

- 3.1 As the need exists (as determined by the County) for performance under the terms of this Contract, the County will notify the Contractor of an existing requirement.
- 3.2 Upon the receipt of this notification, Contractor shall respond within two (2) working days, or as otherwise agreed, by:
 - 3.2.1 Visiting the proposed site in the company of County staff, or;



- 3.2.2 Establishing contact with the County to further define the scope of the requirement.
- 3.3 After mutual agreement on the scope of the individual requirement, Contractor shall then prepare a proposal for accomplishment of the tasks unless Contractor, in its sole discretion, elects not to undertake the Work. If the Work is declined, Contractor will so notify the County 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 Contractor's complete proposal shall be submitted within ten (10) working days unless otherwise agreed.
- 3.6 Upon receipt of the Contractor's proposal, the County will review the proposal for completeness and will reach agreement with the Contractor on pricing, schedule and all other terms, prior to issuance of a Job Order Purchase Order.
- 3.7 In the event the County does not issue a Job Order Purchase Order after receipt of the Contractor's proposal, the County is not obligated to reimburse the Contractor for any costs incurred in the preparation of the proposal.

4. SCHEDULING OF WORK

- 4.1 For each Job Order Purchase Order, the County will issue a Notice to Proceed. The first day of performance under a Job Order shall be the effective date of 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 the Contractor. Contractor shall diligently prosecute the Work to completion within the time set forth in the Job Order Purchase Order. The period of performance includes allowances for mobilization, holidays, weekend days, normal inclement weather and cleanup. Therefore, claims for delay based on these elements will not be allowed. When Contractor considers the Work complete and ready for its intended use, Contractor shall request the County inspect the Work to determine the status of completion. A minimum of 30 days prior to Final Completion the Contractor, in conjunction with the County, shall prepare a comprehensive list of Punch list items, which the County may edit and supplement. The Contractor shall proceed promptly to complete and correct the Punch list items. Failure to include an item on the Punch list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Items on the Punch list must be completed or corrected prior to final payment for the Job Order. Contractor shall proceed promptly to complete and correct items on the list. Two year warranties required by the Contract documents shall not commence until the date of Final Completion unless otherwise provided in the Contract.
- 4.2 Job placement of materials and equipment shall be made with a minimum of interference to County operations and personnel.
- 4.3 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 Contractor at no cost to the Owner or the County.



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

5. QUALITY ASSURANCE/QUALITY CONTROL PROGRAM

5.1 Contractor shall submit, for County 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 County inspectors.

6. DESIGN

6.1 In accordance with the provisions of ARS §34-602 & 603, the County may elect to contract separately with one or more Design Professionals to provide architectural or engineering design of the Project. In rare instances the County may require the Contractor to contract with a Design Professional for architectural or engineering design of a Project.

6.2 Whether the County or the 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:

6.2.1 The Design Professional will provide administration of the Work. The County and Contractor will endeavor to communicate through the Design Professional. Communications by and with the Design Professionals' consultants will be through the Design Professional.

6.2.2 The Design Professional will visit the Site at intervals appropriate to the state 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 County informed of progress of the Work and will endeavor to guard the County against defects and deficiencies in the Work.

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

6.2.4 All drawings produced for projects under this Contract are the property of the County and are owned in whole by the County for any and all future use and consideration.

7. PROJECT AS-BUILTS

7.1 An individual Job Order's scale, complexity and proximity to agency right-of-ways will determine the specific as-built requirements for each individual project. The Contractor shall assume that they must satisfy the as-built requirements of the County as the permitting agency project owner unless otherwise determined by the County at the time of the job order award that project as-builts will not be required.



PINAL COUNTY

- 7.2 To satisfy the requirements of Pinal County as the permitting agency, the Contractor shall retain the services of an Arizona Registered Land Surveyor to as-built the constructed conditions of all grading, drainage, hardscape and underground utility civil improvements.
- 7.3 To satisfy the requirements of the County as the owner, the Contractor shall prepare industry standard redline as-built drawings on a clean print of the construction documents or relevant shop drawing. As-built plans shall show all differences between design and actual construction and shall include differences in lengths, widths, heights, locations, alignments, elevations, slopes, shapes, quantities, materials, etc. wherever construction differs from design by more than the allowed tolerance or where there are differences in materials, color, consistency etc. The 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. UTILITY COMPANY COORDINATION

- 8.1 Unless specifically excluded by the individual Job Order, the 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 County.

9. 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. DUST CONTROL AND WATER

- 10.1 The dust control measures shall be used in accordance with the requirements of the Pinal County Air Quality Control District Code of Regulations. Water or other approved dust palliative shall be applied in sufficient quantities 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 County 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 Pinal County Air Quality Department in person at 85 N. Florence St. Florence, AZ 85132; online at <https://www.pinal.gov/305/Air-Quality> or by phone at 520-866-6929.



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- 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 County.
- 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.

11. WORK BY OWNER

- 11.1 The County 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-6
Pricing Matrix

Indirect Cost of the Work	\$1.00 to \$50,000	\$50,001 to \$200,000	\$200,001 to \$500,000	\$500,001 to \$1,000,000	\$1,000,001 to \$2,000,000
Job Order Contractor's Fee (<i>G&A and Profit</i>)	12.00%	12.00%	12.00%	12.00%	12.00%
Payment and Performance Bonds	1.44%	1.44%	1.44%	1.16%	1.16%
Insurance	0.25%	0.25%	0.25%	0.25%	0.25%
Total Indirect Cost %	13.69%	13.69%	13.69%	13.41%	13.41%
Labor Burden Multiplier % (<i>on employee's base hourly wage rate</i>)	16%	16%	16%	16%	16%



Supplier Contact Information

JOC Civil Construction Services
#233828ROQ

Supplier Name: **DCS Contracting, Inc.**

Street Address (Line 1): **11535 E. Germann Road**

Street Address (Line 2): _____

City: **Chandler** State: **AZ** Zip Code: **85286**

Main Office Telephone Number: **480.732.9238** Alternate Number: **602.770.2042**

Website: **www.dcscontracting.com**

Contacts:

Direct questions regarding solicitation proposal to:

Name / Title: **Becky Hornack, Marketing Manager**

Role/Responsibilities: **proposals, marketing**

Telephone Number: **480.248.0064** Alternate Number: **480.732.9238 x129**

E-mail Address: **becky.hornack@dcscontracting.com**

If awarded, direct Sales questions to:

Name / Title: **Dave Banbury, Business Development Manager**

Role/Responsibilities: **client relations**

Telephone Number: **480.486.0635** Alternate Number: **480.732.9238 x125**

E-mail Address: **dave.banbury@dcscontracting.com**

If awarded, direct Contract and Renewal questions to:

Name / Title: **Matthew Byrne, Chief Estimator**

Role/Responsibilities: **VP, estimating**

Telephone Number: **602.770.2042** Alternate Number: **480.732.9238 x202**

E-mail Address: **matthew.byrne@dcscontracting.com**

If awarded, direct Accounting questions to:

Name / Title: **Liz Miller, Accounting Manager**

Role/Responsibilities: **accounting**

Telephone Number: **480.732.9238 x117** Alternate Number: **480.732.9238 x.117**

E-mail Address: **liz.miller@dcscontracting.com**

233828ROQ JOC Civil Construction Services

Questionnaire – 233828ROQ Attachment B-5 Questionnaire (Q-58IM)

1.1 Question Set - Capacity of the Offeror / Qualifications and Experience of Contractor

- 1.1.1 Provide a general description of all services provided by the Contractor or team that is proposing to provide JOC services. Indicate all services provided by each team member. Include information for any specific subcontractor to be utilized for all work of a certain type.

“Located in Chandler, Arizona, DCS Contracting, Inc. (DCS) is a general contractor specializing in heavy civil construction. Established in 1994, DCS has continuously contributed to civil improvement and development projects throughout the Valley by producing quality projects safely, on-time, and within budget. As a general contractor who self-performs 75% of our projects and with 150+ specialized pieces of equipment, DCS understands the big picture goals of any project and knows the small details that make projects successful, starting in pre-construction through construction. Having a JOC team with a strong background in civil construction and prior experience with the Pinal County allows for streamlined job order execution. DCS is known for quality work and building long-lasting partnerships. We also pride ourselves on being team players and strong facilitators with project owners, engineers, utility owners, stakeholders, and the general public. JOC Director MARTY MONSEGUR will lead the JOC team to complete site investigation, utility potholing, design review comments, utility owner coordination, scoping meetings, cost model preparations, and final negotiations. Marty also oversees all operational activities including project planning, field management, and scheduling to ensure sufficient resources are available to fulfill our contractual obligations. Project Manager EUGENE HERNANDEZ will lead a unified approach on all job orders coordinating with the County, engineer, and stakeholders. He will also oversee all construction activities to meet the schedule and budget while ensuring quality and safety; maintain CPM schedule, conduct progress meeting with subcontractors as well as weekly project meetings with the County and stakeholders; assist in constructability reviews, scope development, value engineering, and project phasing prior to construction; and, participate in partnering meetings with the County, utility owners, and stakeholders. Project Superintendent BRIAN JACKSON will manage daily coordination and oversight of DCS self-perform crews and subcontractors/suppliers, quality and site safety, and assurance that project goals and schedule are met; assist in constructability reviews scope development, value engineering, and project phasing prior to construction; and, communication and coordination with County and impacted stakeholders during construction. Brian oversees all subcontractors and our self-perform crews, which include 6 grading/paving, 7 concrete, and 6 underground utilities. Chief Estimator MATTHEW BYRNE will prepare and develop cost models, project phasing, build sequences, and value engineering proposals; lead the estimating team to complete quantity takeoffs, subcontractors/suppliers solicitation and award, constructability/design reviews, and cost model; and participate in partnering meetings with the County, utility owners, and other stakeholders. Safety Manager CAROLYN BUTLER will schedule and conducts weekly safety meeting with all construction staff and subcontractors, performs

safety inspections, and enforces compliance to industry standards. Prior to any construction, Carolyn will review the scopes of work and propose safety improvements for all construction and County personnel. Quality Control Manager JOSH HALVORSON will conduct regular quality inspections at jobsites with DCS crews and subcontractors to identify potential issues and ensure compliance with project plans and specifications. SUBCONTRACTORS: At this time DCS is not including any specific subcontractors on our team.”

1.1.2 Describe the Contractor’s management and organizational abilities.

“As we have proven on past projects with Pinal County, DCS team understands collaborative delivery and how to be a team player to enhance our value during the project. JOC Director Marty Monsegur and Chief Estimator Matthew Byrne will "sit at the table" with the County to provide collaboration and real-time feedback for innovation and creativity while being mindful of the budget. They will always consider accessibility for future maintenance when developing alternative strategies. During construction, Project Manager Eugene Hernandez will ensure that our commitments are maintained while providing on-time reporting and recordkeeping to meet the County requirements. Project Superintendent Brian Jackson will lead our self-perform crews to ensure work planning is executed in a safe manner with the highest quality. Eugene and Brian will ensure that our subcontractors will behave and perform with the same commitments as DCS.”

1.1.3 List the Arizona professional and contractor license(s) held by the Contractor. Provide the license number and explain if held by an individual or the Contractor.

“DCS holds the following licenses with the Arizona Registrar of Contractors: AZ License #110612 A, General Engineering (Exp. 11/30/2023) and AZ License #110396 B-4, General Residential Engineering (Exp. 10/31/2023), both held by co-owner, Wade Standifird.”

1.1.4 Provide project information where the Contractor provided construction services similar to those listed in Section 1 of the Scope of Work. Identify key personnel involvement in projects. The County may take into consideration the number of Job Order Contracts a company has, the resource investment of the Contractor in current County work, and the amount of previous work recently performed for the County as part of the selection process.

“BROOKFIELD TRANSPORTATION CONSTRUCTION SERVICES JOC - BLOSSOM ROCK TRAIL ROADWAY; DCS was awarded a job order contract for transportation construction services for Brookfield Properties for new roadways, minor and major street maintenance, repairs, and reconstruction for the Superstition Vistas master-planned community. One of the job orders under this contract included Blossom Rock Trail Roadway which consisted of building a 4,000 LF section of roadway that ties into the future Ray Avenue to future parcels in this development. This project included 4,000 LF of 12" ductile water line, 735 LF of 15" RGRCP storm drain and 27,000 SY of new pavement including curbs, sidewalks, ADA sidewalk ramps, and catch basins for drainage. Scope of work also included installation of 34 street lights along roadway. KEY PERSONNEL: Marty Monsegur, JOC Director; Matthew Byrne, Chief Estimator; Eugene

Hernandez, Project Manager; DCS SERVICES PROVIDED: Pavement/Maintenance, ADA Improvements, Utility Coordination, Concrete Curb/Sidewalk, Traffic Control, Underground Utilities, Tie-In to Existing Roadways, Landscaping, and Subcontractor Management; DCS VALUE ADD: Due to volatility of market and long lead times for construction materials, DCS executed an early procurement of the ductile iron water line and reinforced concrete storm drain pipe for this JOC.

2. NOVUS UTILITY CONSTRUCTION SERVICES JOC; Novus Innovation Corridor is a mixed-use development project that consists of approximately 8 million SF of low to high rise office space, multi-family development, hotels, and retail space. This contract with Catellus Development Corp./Arizona State University included the infrastructure and reconstruction and pavement maintenance of this development located adjacent to the ASU Tempe campus. Work consisted of .6 miles of roadway reconstruction in addition to .5 miles of new roadway improvements, which includes wet/dry utilities, landscaping, and street lights. Our extensive pre-construction planning and stakeholder coordination allowed for a streamlined construction phase with no delays due to utility conflicts. We also provided minimal disruption to stakeholders while maintaining access to campus. KEY PERSONNEL: Marty Monsegur, JOC Director; Matthew Byrne, Chief Estimator; DCS SERVICES PROVIDED: Grading/Paving, Curb Gutter, ADA Improvements, Underground Utilities, Concrete Curb/Sidewalk, Traffic Control, Improvements to Existing Street and Infrastructure and New Streets, Landscaping, and Subcontractor Management; DCS VALUE ADD: Our team provided pre-construction field investigation of existing utilities and site conditions that were critical to the design of the water main replacement. By analyzing the existing water system, we were able to prepare a project build sequence that maintained the old water main until construction was complete.

3. VERRADO HERITAGE DISTRICT REMEDIATION ON-CALL; This on-call contract consisted with DMB Associates included a wide array of new construction and rehabilitation of existing civil improvements. Scopes and size of work orders ranged from \$500K to \$1M+ and included grading/paving, concrete, water, sewer, storm drain, street lights, landscaping and other work considered incidental to civil construction. The two major work orders under this contract were: (1) Main Street District Repairs: rehabilitated pavement, subgrade and concrete curbs, sidewalks, and driveways within the Verrado residential neighborhood. DCS completed field investigations to identify the cause of the roadway failure and propose methods for repair and remediation. (2) Granite Ridge Sewer Rehabilitation: removed and replaced an existing 8" sewer main and 24" storm drain. DCS worked with EPCOR to complete work during low flows to avoid sewage bypass pumping by use of vacuum trucks to reduce construction cost. Our team managed all aspects of construction from design to completion; KEY PERSONNEL: Marty Monsegur, On-Call Director; Matthew Byrne, Chief Estimator; DCS SERVICES PROVIDED: Pavement Maintenance, Earthwork, ADA Improvements, Concrete Curb/Sidewalk, Traffic Control, Utility Coordination, Landscaping, Reconstruction of Existing Roadways, and Subcontractor Management; DCS VALUE ADD: DCS oversaw field investigations to identify the cause of the roadway failure and propose methods for repair and remediation. The most effective method was determined by completing a test section within the neighborhood. As part of this process, we painted and documented all areas in need of repair to provide the owner with a unit price cost estimate.

4. ELLSWORTH ROAD EMERGENCY REPAIR; DCS was contacted by the Town of Queen Creek to perform an emergency repair of a water line leak and roadway settlement on Ellsworth Road just south of Cloud Road. Our team promptly mobilized to the location that same day to assess the situation and setup traffic control to

restrict the area of settlement. Working with Town representatives, DCS completed the field investigations, located the source of the water leak, and established the limits of the roadway failure. Our crews worked quickly to repair the water leak and removed 450 cubic yards of saturated subgrade, reconstructed the roadway with 385 tons of aggregate base course (ABC), and placed 360 tons of asphalt. KEY PERSONNEL: Marty Monsegur, Project Director; Matthew Byrne, Chief Estimator; Eugene Hernandez, Project Manager; DCS SERVICES PROVIDED: Underground Utilities, Earthwork, Concrete Curb/Sidewalk, Traffic Control, Utility Coordination, Landscaping, Reconstruction of Existing Roadways, and Subcontractor Management; DCS VALUE ADD: Due to DCS' past experience with the Town and availability, DCS was able to quickly mobilize the day of the request to begin assessment of the pipeline failure to provide solution to remedy the roadway. We will provide this same turn-key service to Pinal County under this JOC.

5. MERIDAN ROAD IMPROVEMENTS: GERMANN RD. TO STATE ROUTE 24; DCS constructed a new, 1½ miles of arterial roadway with drainage improvements to provide one travel lane in each direction as well as a two way left turn lane on Meridian Road between Germann Road and the new State Route 24 for Pinal County. Germann Road was widened on the north side of the roadway to accommodate westbound and eastbound left turn lanes. Pecos Road was reconstructed for 200' to connect into the Meridian Road improvements. This project also included the micro-seal and restriping of 400' and 760' of Germann Road and Pecos Road respectively to accommodate lane transitions. DCS built an earthen channel and 2 box culverts to convey runoff generated east of the project to an existing channel. Additional drainage improvements included numerous culvert arrays to convey regional drainage through the project site. A new 12" water main and 24" sewer main will also be installed through the length of the project. We also installed two new traffic signals at the intersection of Germann and Pecos Roads; KEY PERSONNEL: Marty Monsegur, Project Director; Matthew Byrne, Chief Estimator; Eugene Hernandez, Project Manager, Brian Jackson, Project Superintendent; DCS SERVICES PROVIDED: Underground Utilities, Earthwork, Concrete Curb/Sidewalk, Traffic Control, Utility Coordination, Landscaping, Reconstruction of Existing Roadways, and Subcontractor Management; DCS VALUE ADD: Our crews successfully installed more than 4 miles of large diameter sewer, water, and storm drains within a 4-month timeframe. Our team brings the familiarity and first-hand experience of working in this area bordering Pinal County. This knowledge will be brought forward to streamline productivity and resources."

1.2 Qualifications and Experience of Key Personnel

- 1.2.1 Identify and list the qualifications and experience of the key people who will be responsible for performing the work under the resulting contract.

"The proposed DCS key team was selected based on their individual project successes, collective work on similar scopes of work, past experience with the County, and availability. Together, our team possesses 64 years of heavy civil construction experience and we are confident that the County's goals will be met with these individuals. Project Manager EUGENE HERNANDEZ has 24 years of extensive roadway, civil, and sitework construction experience including projects near the County limits such as Meridian Road Improvements: Germann Road to State Route 24 for Pinal County completed in August 2022 with Brian and Matthew. As such, he is well-acquainted with the area infrastructure and has established relationships with County personnel, utility

owners, and adjacent entities. Eugene will leverage this knowledge to maximize the budget and schedule while achieving the desired goals for each job order. Eugene is also personally invested in executing work and will be mindful of quality workmanship, public safety, and cost. TRAINING: OSHA and Competent Person 10-Hr Training, Excavation & Confined Space Training, ADOT-AGC Erosion Control Coordinator Course, and Maricopa 310 Dust Control Certification. Project Superintendent BRIAN JACKSON is a detail-oriented and collaborative leader who understands the importance of delivering each job order with the highest quality and in the safest manner. He has steadily advanced his career in the field starting as an operator, then grading foreman, and now project superintendent. Brian is skilled on reading and building projects per plans and specifications to ensure owner satisfaction. With 23 years of construction experience, Brian has extensive heavy civil experience within or near the county limits including Meridian Road Improvements: Germann Road to State Route 24 for Pinal County completed in August 2022 with Eugene and Matthew. TRAINING: OSHA and Competent Person 10-Hr Training, Excavation & Confined Space Training, Maricopa 310 Dust Control Certification, and eRail Contractor Safety Orientation. Chief Estimator MATTHEW BYRNE is well-versed in estimating of JOCs of all scopes and sizes. He will work jointly with Eugene, Brian, County representatives, and stakeholders in developing the conceptual estimating and cost analysis efforts as well as supervision of quantity take-offs, pricing analysis, and subcontractors/suppliers participation. With 17 years of construction experience, Matthew has extensive estimating experience including for the Meridian Road Improvements: Germann Road to State Route 24 for Pinal County with Eugene and Brian. Matthew's prior field experience gives him a high level of expertise with a keen eye for value engineering and thinking outside the box to achieve project goals. His specialty is evaluating different alternates to give the project team the information required to make the best-informed decisions. EDUCATION/TRAINING: B.S., Business Management, Arizona State University, OSHA and Competent Person 10-Hr Training, Maricopa 310 Dust Control Certification, and eRail Contractor Safety Orientation.”

- 1.2.2 Discuss key personnel and their perspective and experience on partnering, quality control, project scheduling, claims, dispute resolution, changes in Scope of Work, construction safety, value engineering, balancing workloads and ways to reduce costs to the County.

“PARTNERING. In order to achieve a true partnership on a project, DCS focuses on maintaining clear communication and trust with our owners and project stakeholders. Project Manager Eugene Hernandez and Chief Estimator Matthew Byrne will meet with the County to provide a collaborative and real-time feedback approach to work while being mindful of the budget. Over the past 29 years, DCS has established an 82% rate of repeat clients which we attributed to our approach of mutual trust and respect. The key to successfully partnering with owners and stakeholders includes establishing expectations and open lines of communication. QUALITY CONTROL. Quality work starts with quality workers. This is why we continuously train and educate our team members - from project managers to laborers - on the latest ADA, municipal, state, safety, and Arizona 811 construction standards, specifications, and requirements. This instructing ensures we provide team members with the tools to complete our projects to the highest standards. In addition, our full-time Quality Manager Josh Halvorson works with our Project Superintendent Brian Jackson and the rest of the team to implement our 3-tier quality

control plan to ensure quality standards are met. This plan includes: (1) **SUBCONTRACTOR/SUPPLIER SELECTION:** Select qualified subcontractors and suppliers that have repeatedly delivered on performance, quality, and safety; (2) **EXPERIENCED EMPLOYEES:** Provide continuous education on industry, federal, state, and municipal standards to effectively ensure quality work; and (3) **CHECKS & BALANCES:** Perform daily on-site quality checks and quickly escalate any issues until it is 100% resolved. **PROJECT SCHEDULING.** The initial schedule is adapted with input from our team as well as the County, stakeholders, and subcontractors. The team's input certifies we are establishing a realistic and achievable schedule. The final schedule is then incorporated into the job order agreements with our subcontractors and suppliers to hold them accountable and secure their obligations. Once construction begins, Project Manager Eugene Hernandez conducts progress meetings with the County and stakeholders to discuss the 3-week project look ahead and make adjustments to manpower, equipment, and subcontractors required to maintain the schedule. The CPM schedule is then updated and distributed to the team, subcontractors, suppliers, and the County. **CLAIMS/DISPUTE RESOLUTION.** It is DCS' culture to resolve any issue before it becomes a dispute. Early issue discovery is an on-going process and must be addressed quickly. Project Superintendent Brian Jackson will be the first point-of-contact to address a problem. If the problem is not resolved at the superintendent level within 3-5 business days, it will be escalated to the Project Manager Eugene Hernandez. DCS has had 99% of all issues resolved at the project manager level or earlier. In the rare case, if a dispute not resolved at this level, it will escalate to DCS management. **CHANGES IN SCOPE OF WORK.** It is not uncommon during a job order contract that an owner adds scope to address any constraints. As a general contractor who self-performs grading/paving, concrete, and underground utilities, DCS has the means to vast resources and equipment to provide a turn-key approach for all civil construction needs. This is why we believe that an extensive schedule of values with assigned unit prices is important for every project. Therefore, when a circumstance arises where a change in the scope is encountered, Project Manager Eugene Hernandez will notify the County immediately and will look at the values with assigned unit prices and move forward to compare and agree upon a new fair and equitable price. **CONSTRUCTION SAFETY.** Our safety culture is reflected in our company's initials: Don't Compromise Safety! We encourage our employees to create a strong safety culture. Our belief is that zero safety incidents is a realistic goal and one we strive to achieve on every project. Our full-time Safety Manager Carolyn Butler oversees our health and safety program which includes developing site-specific safety plans, training of employees/subcontractors, inspection, monitoring, and audits of jobsites. The DCS Safety and Health Policy is reviewed annually to ensure we are in compliance with federal, state, county and local requirements. Other aspects of our safety program include: New Employee Orientation, In-House Safety Training: OSHA 10 Hour, Fall Protection, Confined Space, Competent Person, Excavation/Shoring, Weekly Tailgate Safety Meetings, Job Hazard Analysis, Safety Audits, and DCS Safety Committee. Overseen by Project Superintendent Brian Jackson, DCS provides a Job Hazard Analysis (JHA) for every construction activity along with Work Plans so we can eliminate any conflicts or issues. The JHA Daily Refresher meetings are conducted every morning to mitigate any risks and ensure work is performed in a safe, quality-focused, and productive manner. **VALUE ENGINEERING.** DCS will carefully identify scope exclusions and assumptions and identify value engineering options, which will be reviewed by the County and the design engineer to ensure goals are met. As the plans progress and we approach a GMP, the

exclusions/assumptions will be mitigated and included in the line-item scope of work or further identified a contingency items. BALANCING WORKLOADS. DCS maintains a master project backlog schedule by crew and project to assist in resource allocation and workload for all our current and upcoming projects. This master backlog schedule is updated weekly and reviewed with all DCS project managers and project superintendents. This level of organization allows us to see which of our crews and projects have "float" and how we can maximize utilization of resources. This benefits the County since we have crews readily available to complete work as needed and have the backlog to keep our crews working in between each job order. WAYS TO REDUCE COSTS TO THE COUNTY. Since DCS is a general contractor that self-performs grading/paving, concrete, and underground utility work, we will complete a majority of job orders thus avoiding subcontracting work and double mark-ups. This also allows us to maximize efficiency by overlapping scopes and sharing resources across different activities. DCS schedules resources for all projects for better management of crews, materials, and equipment. This allows our crews to maximize production while keeping costs competitive for the County."

1.3 References

- 1.3.1 Responder shall provide contact information for a minimum of three (3) references who can comment on the company's professional work providing services similar in scope to those required by Pinal County. Provide name, title, phone, email, physical address and number of years working with each reference.

"CELESTE GARZA, Assistant County Engineer, Pinal County, 520.866.6402, Celeste.Garza@pinal.gov, 85 N. Florence St., Florence, AZ 85132, Years Working with DCS: 2; ARMANDO LOPEZ, CIP Manager, City of Surprise, 623.222.7039, Armando.Lopez@surpriseaz.gov, 16000 N. Civic Center Plaza, Surprise, AZ 85374, Years Working With DCS: 4; MARK IVANICH, Engineering Project Manager, City of Avondale, 623.333.4223, mivanich@avondaleaz.gov, 11465 W. Civic Center Drive, Suite 120, Avondale, AZ 85323, Years Working With DCS: 3; DAVE NILSEN, Vice President of Development, DMB Associates, 480.201.4870, dnilsen@dmbinc.com, 6263 N. Scottsdale Rd., Ste. 330, Scottsdale, AZ 85250, Years Working With DCS: 20."

2.0 Question Set – Method of Approach

- 2.0.1 Describe successful processes your company has developed for the JOC process. Provide specific details and methodology to demonstrate why each process was successful. Include a description of the software system(s) successfully used by your company for project estimating, planning, scheduling and managing construction on JOC projects.

"Project Manager Eugene Hernandez and our team will develop and execute each job order with the DCS processes and techniques developed over the past 29 years of business. The County can count on working with Eugene during each of the 4-step job order request process detailed in these 4 steps: STEP 1: IDENTIFICATION/PREPARATION. 1a. Review plans and specifications and conduct site visit with County representative, if necessary (job order requests without plans and

specifications requires mandatory site visit with County); 1b. Gather site information: photos, measurements, video, etc.; 1c. Develop detailed scope: DCS estimating team completes a detailed take-off utilizing On-Screen Takeoff and AGTEK Earthwork 4D; 1d. Generate a formal Schedule of Values with a Summary of the Scope Inclusions and Exclusions and presented to County for review. STEP 2: PROPOSAL PRESENTED. 2a. Prepare detailed cost estimate and proposal: Cost estimate will include cost breakdown by bid item of all activities including, labor, equipment, materials and subcontractors/suppliers; 2b. Review proposal and begin negotiations; 2c. Develop preliminary schedule; 2d. Submit final job order to the County for approval. STEP 3: EXECUTION. 3a. Finalize project schedule; 3b. Schedule resources (manpower, equipment, suppliers, subcontractors, etc.); 3c. Conduct kick-off meeting with all required County personnel and stakeholders; 3d. Begin/Complete construction of job order; 3e. Communicate with the County through duration. STEP 4: CLOSE-OUT. 4a. Final walk through with the County; 4b. Generate punch list; 4c. Complete punch list items; and 4d. Turnover all documentation. Eugene and Chief Estimator Matthew Byrne will work together during STEPS 1-2 to define the scope and prepare a complete estimate. All estimates include cost breakdown by bid item of all activities including labor, equipment, materials, and subcontractors/suppliers as well as a resource loaded schedule for each job order. STEP 3 is initiated upon proposal approval and begins with a kick-off meeting with Eugene and Project Superintendent Brain Jackson. During construction, Eugene will conduct weekly meetings with County staff, subcontractors, and stakeholders to review project coordination items, 4-week look ahead schedule, public outreach efforts, and schedule updates. STEP 4 includes a final walk with the County and completion of required punch list items. To effectively execute each job orders, DCS utilizes the following software systems: PROJECT ESTIMATING & PLANNING. DCS has implemented multiple processes and software for pre-construction, estimating, and managing projects and business operations to complete projects. Over the years, our team has perfected these processes to make completing CMARs seamless and hassle-free, benefiting our clients. To effectively manage operations from pre-construction to completion, DCS utilizes the following software and processes: Agtek Earthwork 4D: Specializes in calculation mass grading quantities; reports are used to generate cut/fill maps, site balance, and project phasing; InEight Hard Dollar: Provides detailed cost estimates, detailed reporting including crew configuration, planned production, material and subcontractors' resources; Microsoft Project: Develops project schedules including critical path and milestone tracking for each activity; the master schedule is updated weekly and distributed to the project team monthly and/or as needed; On-Screen Take-Off: Delivers fast and accurate quantity and takeoff scopes of work; PM Datasync: Manages and tracks RFIs, subcontractor contracts, submittals, transmittals, purchase orders and contracts, change orders, dispatch, billings, meeting agendas/tasks, and Arizona 811 logs; Sage 300: Provides monthly budget updates and man/equipment hour reports to monitor project cost. SCHEDULING. DCS implements a 2-part approach to scheduling: 1. Build Sequence and CPM Schedule: DCS is a firm believer in tracking all items that may affect the project schedule. Starting with the estimating process, our team integrates the cost model into the CPM schedule to establish the build sequence and critical path schedule. During pre-construction, the schedule is adapted with input from our team as well as our subcontractors. The final project schedule is then incorporated into the contracts with our subcontractors and suppliers to hold them accountable to maintain their obligations per the project schedule. 2. Resource Scheduling: In order to maximize the utilization of DCS and

subcontractor resources, all project scheduling goes through our centralized dispatch that is managed in our PM Datasync system by our Dispatch Coordinator. All material orders, equipment deliveries, and subcontractors are logged and requested via PM Datasync which allows us to organize, prioritize and dispatch resources to our field crews. This system allows all project managers, project engineers, superintendents and foreman to see schedule resources via tablets and laptops in real-time. MANAGING CONSTRUCTION. To assist in managing each job order, we use our in-house database system called PM Datasync. This system links all project management tools to one interface allowing for seamless access to RFIs, subcontractor contracts, transmittals, submittals, purchase orders and contracts, meeting agendas/tasks, progress billings, dispatch, Arizona 811 logs, and change orders. While we employ many systems for managing construction, DCS knows it is important to be flexible and committed to the budget, have in-depth knowledge of your systems, and dedicate the resources to meet both large and small projects. Our communication with the County ensures hassle-free operations during construction. Project Manager Eugene Hernandez will provide project and field leadership including weekly progress meetings and reports and daily interactions with inspectors and operations personnel. Eugene and Project Superintendent Brain Jackson use tablets in the field to record material handling and inventory reports, daily logs and photos, drawing and specification updates, RFIs/RFAs, and approved submittal access for construction activities.”

- 2.0.2 Discuss the key components and advantages of your company’s selection process for subcontractors. Demonstrate your understanding of the County’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 Subcontractor Selection Plan attached in the designated area in Bonfire.

“DCS’ Subcontractor Selection Plan has been perfected over the years and benefits the County since it ensures the most qualified and capable subcontractors are utilized. DCS maintains a vast database of previously approved and qualified subcontractors and suppliers who have a proven successful history working on heavy civil construction projects to draw from. We also recruit additional qualified firms to continuously enhance our services. All subcontractors and suppliers are required to complete our DCS pre-qualification process that evaluates firms based on state licenses, insurance coverage, bonding capacity, financial stability, recent project experience, current availability, and references. Our plan includes subcontractors who are selected on Qualifications-Only and subcontractors selected based on a Combination of Qualifications and Price. Subcontractors who are selected based on Qualifications-Only are done with approval from the County and situations where a specialty subcontractor is required, availability that would jeopardize project schedule, and it is in the best interest of the project. DCS works closely with our subcontractors on schedules, staffing allocation, and equipment needs to ensure timely completion of all construction activities. We also meet weekly to ensure work is performed with the utmost in safety and quality. Per the County's request, our detailed Subcontractor Selection Plan is attached in the designated area in Bonfire.”

- 2.0.3 Discuss the Contractor's intention of self-performance for each Job Order Assignment and indicate percentage of self-performance you intend to provide under this contract. Remember that Pinal County requires a minimum of 51% of work be self-performance.

"DCS is fully committed to providing the best services and exceeding the County's expectations for this JOC. DCS is available to start work as soon as the County issues the notice of award. JOC Director Marty Monsegur will manage each job order request and evaluate the requirements with the County and stakeholders. This ensure the job order's goals are achieved and with the appropriate staffing resources. With over 200 employees, 150+ pieces of specialized equipment, and solid subcontractor/supplier relationships, DCS has the resources and means to successfully deliver on this JOC. As a firm that self-performs 75% of its work, we are knowledgeable of the JOC process and the multi-faceted aspects of major and minor civil construction projects including street repairs and maintenance, flood and traffic control, dust abatement, and public utility infrastructures. Our self-perform crews include 6 grading/paving, 7 concrete, and 6 underground utilities. DCS self-performs the following scopes of work and trades: Right-of-Way Construction: Complete intersection reconstruction; Roadway repair and construction; Paving: ABC placement; Asphalt milling; Asphalt overlay; Asphalt patching; Asphalt removal and placement; Subgrade prep; Mass Excavation/Earthwork: AGTEK Earthwork 4D analysis; Import/export to balance site; Parkway grading; Sewer, Water, Storm Drain: Irrigation: PIP, HDPE, RGRCP; Sewer Main: PVC, VCP, DIP; Storm Drain: PVC, CMP, HDPE, RGRCP; Water Main: PVC, DIP; Concrete: Catch basins; Curbs; Decorative concrete; Drainage structures; Driveways; Headwalls; Ramps; Scuppers; Sidewalk; Spillways; Valley gutters; Subgrade Mitigation: Cement/lime soil stabilization; Geo grid reinforcement; Filter fabric pavement underlayment"

- 2.0.4 Discuss what efforts the Contractor would initiate to meet the project budget and schedule during the negotiation process.

"Identifying and quantifying risk is critical to effective cost control and preparing an accurate budget. To accomplish this, our team will conduct pre-construction site investigations and scope meetings with the County to define the existing conditions and project constraints. Our estimating team has access to completed project productions and job costs from over the past 15 years which allows to create the most cost-effective budget for the County. During construction, Project Manager Eugene Hernandez will manage the budget using Sage 300 which provides monthly budget updates and man/equipment hour utilization reports allowing him to identify and address potential overruns before they become a costly issue."

SUBCONTRACTOR SELECTION PLAN

Our 7-step subcontractor selection process is outlined in **FIGURE 1** (see right). This process has been perfected over the years and will benefit this JOC because it ensures the most qualified and capable subcontractors are being utilized. All subcontractors and suppliers are required to complete our DCS pre-qualification process that evaluates firms based on state licenses, insurance coverage, bonding capacity, financial stability, recent project experience, current availability, and references.

Our Subcontractor Selection Plan includes:

1. Subcontractors who are selected on Qualifications Only
2. Subcontractors selected based on a Combination of Qualifications and Price

Subcontractors who are selected based on Qualifications Only, are situations where:

- a). a specialty subcontractor is required
- b). availability that would jeopardize project schedule
- c). it is in the best interest of the project

Our selection process ensures the most qualified and capable subcontractors/suppliers are being contracted. For example, if we identify a scope of work that will require a specialized traffic control subcontractor, that company will be selected based on qualifications only. This is due to the fact that effective pedestrian and vehicular traffic control will be essential to the success of the project and, therefore, in the best interest of the project to select the subcontractor based on qualifications only. Other subcontractors/suppliers such as pipe materials, pavement replacement, and Ready Mix, would be selected based on a combination of qualifications and price.

FIGURE 1: SUBCONTRACTOR SELECTION PLAN



1. Analyze project scope for required subcontractors



2. Identify scope for Qualifications Only and Combination of Qualification and Price



3. Submit list of pre-qualified subcontractors to the County for approval



4. Solicit approved subcontractors



5. Evaluate SOQ's and/or bids and review with subcontractors for completeness



6. Prepare subcontractor summary with award recommendation and submit to the County for approval



7. Issue contracts to selected subcontractors

DCS SELF-PERFORM SERVICES

DCS self-performs all the scopes/trades shown below. This is a benefit Pima County because we are a “one stop shop” for all your civil improvement needs under this JOC.



RIGHT-OF-WAY CONSTRUCTION

- ✚ Complete intersection reconstruction



PAVING

- ✚ Subgrade prep
- ✚ Asphalt placement
- ✚ ABC placement
- ✚ Asphalt patching



MASS EXCAVATION

- ✚ Agtek earthwork 3D analysis
- ✚ Import/export to balance site
- ✚ Parkway grading



SEWER, WATER, STORM DRAIN

- ✚ Sewer Main: PVC, VCP, DIP
- ✚ Water Main: PVC, DIP
- ✚ Storm Drain: PVC, CMP, HDPE, RGRCP
- ✚ Irrigation: PIP, HDPE, RGRCP



CONCRETE

- ✚ Concrete curb
- ✚ Spillways
- ✚ Sidewalk
- ✚ Headwalls
- ✚ Ramps
- ✚ Catch basins
- ✚ Valley gutters
- ✚ Drainage structures
- ✚ Scuppers
- ✚ Decorative concrete
- ✚ Driveways



SUBGRADE MITIGATION

- ✚ Cement/lime soil stabilization
- ✚ Geo grid reinforcement
- ✚ Filter fabric pavement underlayment

WHAT OUR TRADE PARTNER ARE SAYING ABOUT DCS



*“I have been very **FORTUNATE** to have been working with DCS Contracting for the past 12 years. DCS has always been great to work with because of their **KNOWLEDGE, EXCEPTIONAL ORGANIZATION AND FRIENDLY STAFF** to work with the on projects.”*



*“DCS is an **EXCELLENT** trade partner. They are always **PROACTIVE, FLEXIBLE** and willing to **DO WHAT IT TAKES** to get the job done. They are **A TRUE PARTNER** that **VALUES RELATIONSHIPS** and always acts with a highest levels of **INTEGRITY**. In today’s challenging environment this type of **PARTNERSHIP** is critical for **SUCCESS**.”*



HEAVY CIVIL GENERAL CONTRACTOR



ABOUT US

Founded in 1994, DCS Contracting is a family-owned heavy civil general contractor based in Chandler, Arizona. We specialize in highway, roadway, and underground utility construction in both the public and private sectors. We continue to operate with the same personalized approach upon which the company was founded, building a family of clients and deep network of partners across the state of Arizona. Our skilled workforce of 200+ provides exceptional craftsmanship and service to sustain our communities for decades to come.

SERVICES

ROADWAY IMPROVEMENTS:

all aspects of heavy civil construction including grading, paving, utilities, street lights, traffic signals, landscaping, box culverts, signage, and striping

GRADING & PAVING: mass excavation from residential subdivision, commercial sites, roadways, and drainage channels, small patch jobs and mill and overlays to full roadway section construction including aggregate and asphalt placement

UNDERGROUND UTILITIES:

all wet utilities including water, sewer, storm drain, and irrigation facilities

CONCRETE, FLATWORK & STRUCTURES: curb and gutter, sidewalk, flatwork, drainage structures, box culverts, as well as new concrete for residential, roadways, and commercial sites and retrofits to existing sidewalks and ramps

SITE DEVELOPMENT:

residential and commercial site development from bare land to finished pavement and landscape

OUR SELF-PERFORM RATE OF ~°% INCLUDES THE FOLLOWING TRADES:

- GRADING/PAVING
- CONCRETE
- UNDERGROUND UTILITIES



DCS works collaboratively with all project owners and stakeholders during construction and are proactive in bringing real solutions.”

PROJECT DELIVERY

DCS PURSUES PROJECTS WITH PUBLIC AND PRIVATE OWNERS THROUGH THE DELIVERY METHODS:

- CONSTRUCTION MANAGER @ RISK
- DESIGN-BID-BUILD
- DESIGN-BUILD
- JOB ORDER CONTRACT



DCS CORE VALUES



TEAMWORK: On all of our projects, it is our goal to develop a spirit of trust, respect, and cooperation with clients, engineers, and stakeholders. It is through this partnership that we enhance collaboration through shared goals, open communication, and problem solving.



INTEGRITY: Over the years, DCS has established ourselves as a general contractor with a reputation for honesty, fairness, and quality through project completion. It is because of our trustworthiness and attention to detail that we have forged strong, long-term relationships with clients, engineers, subcontractors, and suppliers.



SAFETY: DCS is fundamentally focused on safety and maintains a stellar safety record through careful planning, proactive communication, and continuous education of our employees. It is our intent to create a culture and environment that fosters and encourages preemptive safety protocols to prevent injury to any person.

CLIENTS

PUBLIC:

City of Avondale
City of Chandler
City of Mesa
City of Phoenix
City of Surprise
Maricopa County Department
of Transportation
Pinal County
Town of Gilbert
Town of Queen Creek

PRIVATE:

Ashton Woods
Brookfield
DMB Associates
D.R. Horton
KB Homes
Mattamy Homes
Meritage Homes
Shea Homes
Silver Fern Companies
Taylor Morrison

CONTACT US

www.dcscontracting.com  

 11535 E. Germann Road
Chandler, AZ 85286

 p 480.732.9238
f 480.732.9239

AZ ROC A-110612 | B4-110396

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
DCS CONTRACTING, INC.**

**EXHIBIT B
Scope of Work**

Civil site work at the Glendale Regional Public Safety Center (GRPSTC).

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
DCS CONTRACTING, INC.**

EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

Method and amount of compensation is based on Scope and Fee as provided in Pinal County Contract 233828ROQ..

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Statement of Work must not exceed \$ _____ annually or \$2,000,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

As outlines in Exhibit A.