

AGREEMENT
TO PROVIDE SERVICES/SUPPLIES PURSUANT TO A
COOPERATIVE PURCHASING CONTRACT

This Agreement hereinafter (“Contract”) is made and entered into on this ____ day of _____, 2018 (“Effective Date”), by and between the Town of Paradise Valley, Arizona, a municipal corporation, hereinafter designated as the “**Town**” and Markham Contracting Co., Inc., an Arizona corporation hereinafter designated as the “**Contractor**.”

Recitals:

A. Contractor has contracted with the City of Peoria to provide civil construction services, materials and/or equipment pursuant to the cooperative purchasing terms in Job Order Contract: Citywide Civil/Site work, Contract No. ACON01417, see attached **Exhibit A**, hereinafter the “Cooperative Purchasing Contract;” and

B. Pursuant to A.R.S. § 41-2631 et seq. and Town of Paradise Valley Resolution No. 1205, the Town has authority to utilize cooperative purchasing contracts of State of Arizona public agencies and public procurement units, including Mohave Educational Services Cooperative, Inc., and engage contractors under the terms thereof.

CONTRACTOR AND THE TOWN, FOR THE CONSIDERATION
HEREINAFTER SET FORTH, PROMISE, COVENANT AND AGREE AS FOLLOWS:

1. Scope of Work.

1.1 Contractor shall provide the following services, materials and/or equipment: Civil construction services such as roadways, drainage structures, wet and dry utilities, as described in the Cooperative Purchasing Contract for the specific products and services contained in the East McDonald Drive Box Culvert Extension Final Proposal attached hereto as **Exhibit B**, and incorporated herein by this reference (“Scope of Work”). As used in this Contract, all references to the City of Peoria shall mean the Town of Paradise Valley, Arizona.

1.2 Contractor shall comply with all specific requirements and/or options of the Town, as specified in **Exhibit C** attached hereto and incorporated herein by reference.

2. Completion of Work. The Contractor shall complete all work set forth in the Scope of Work on or before May 11, 2018.

3. Payment. The Contract Fee is not to exceed \$183,362.41. Payment to the Contractor for the services, materials and/or equipment provided, shall be made in accordance with the price list and terms set forth in the Cooperative Purchasing Contract.

4. Terms of Cooperative Purchasing Contract Apply. All provisions of the Cooperative Purchasing Contract documents are incorporated in and shall apply to this Contract as though fully set forth herein, except as otherwise provided for in this Contract.

5. Contract Term and Renewal. The term of this Contract shall commence upon the Effective Date and continue through June 30, 2018. The term of this Contract, including renewal periods, is limited to the end date of the Cooperative Purchasing Contract and the total length of the contract shall not exceed sixty (60) months. If this Contract is renewed, the Contract fee shall be adjusted as provided for in the Cooperative Purchasing Contract.

6. Certificates of Insurance. All insurance provisions of the Cooperative Purchasing Contract shall apply, including without limitation, the requirement to name the Town as an additional insured. Prior to commencing work under this Contract, Contractor shall furnish the Town with Certificates of Insurance, or formal endorsements as required by the Contract, issued by the Contractor's insurer(s) as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this _____ day of _____, 201____.

TOWN OF PARADISE VALLEY:

CONTRACTOR:

By: _____
Kevin Burke
Town Manager

By: _____
Title: _____

ATTEST:

APPROVED AS TO FORM

Town Clerk

Andrew Miller
Town Attorney

EXHIBIT A
COOPERATIVE PURCHASING CONTRACT

See attached City of Peoria Job Order Contract for Citywide Civil/Site Work,
Contract No. ACON01417



City of Peoria, Arizona Job Order Contract



Statement of Qualifications No: P17-0020

Description of Work: Citywide Civil/Site Work

Location: City of Peoria, Materials Management
Mailing Address: 9875 N. 85th Ave., 2nd Fl., Peoria, AZ 85345

Contact: Lisa Houg, CPPB
Phone: (623) 773-7115

OFFER

Contractor's License Number:
ROC072454 A, ROC046809 B-4

Markham Contracting Co., Inc.
Job Order Contractor Name

Authorized Signature for Offer

22820 N. 19th Avenue
Address

Mike Markham Jr
Printed Name

Phoenix AZ 85027
City State Zip Code

Vice President COO
Title

623-869-9100
Telephone Fax

mikemarkham@markhamcontracting.com
E-mail

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

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

Attested by:
Rhonda Geriminsky, City Clerk

City of Peoria, Arizona.
Eff. Date: 2/1/2017

Approved as to form:

Steve Burg, City Attorney



ACON01417
Contract Number

Awarded on Jan. 26, 2017

City Seal
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Official File

Dan Zenko, Materials Manager

SCANNED



CONTRACT AMENDMENT

Solicitation No: P17-0020B Page 1 of 1

Description: JOC for Citywide Civil/Site Work

Amendment No: One (1) Date: January 9, 2018

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

Buyer: Lisa Houg

In accordance with Article 2, Section 2.1 Contract Term, the above referenced contract shall expire on January 31, 2018 and is hereby extended. The New Contract Term is: **February 1, 2018 to January 31, 2019.**

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

	1/11/18	Mike Markham Jr, Vice President COO	Markham Contracting Co., Inc.
Signature	Date	Typed Name and Title	Company Name
22820 N. 19 th Avenue	Phoenix	AZ	85027
Address	City	State	Zip

Attested by:

Rhonda Geriminsky, City Clerk



City Seal
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City of Peoria, Arizona

CC Number

ACON01417A
Contract Number

Director: Adina Lund, Development & Engineering
Director

Department Rep: Dan Nissen, Deputy Engineering
Director

Approved as to Form:

Steve Burg, City Attorney

The above referenced Contract Amendment is hereby Executed:

Jan. 23, 2018, at Peoria, Arizona

Dan Zenko, Materials Manager

JOB ORDER CONTRACT



P17-0020

JOC Citywide Civil/Site Work

CONTRACT FOR CONSTRUCTION

**JOB ORDER CONTRACT AGREEMENT
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JOB ORDER CONTRACTING CONTRACT

THIS CONTRACT is entered into and made effective the 1st day of February, 2017 by and between the City of Peoria, Arizona, an Arizona charter municipality (the "Owner"), and Markham Contracting., Inc. (the "Job Order Contractor"). The parties agree as follows:

1. DEFINITIONS.

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

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

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

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

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

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

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

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

1.9. Reference Standards

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

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

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

2. CONTRACT TERM

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

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

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

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

3. PERFORMANCE OF THE WORK

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

3.1.1. Contract number along with Job Order Contractor's name;

3.1.2. Job Order number and date;

3.1.3. The agreed Work and applicable technical specifications and drawings;

3.1.4. The agreed period of performance and, if required by Owner, a work schedule;

- 3.1.5. The place of performance;
- 3.1.6. The agreed total price for the Work to be performed;
- 3.1.7. Submittal requirements;
- 3.1.8. Owner’s authorized representative who will accept the completed Work;
- 3.1.9. Signatures by the parties hereto signifying agreement with the specific terms of the Job Order;

and

- 3.1.10. Such other information as may be necessary to perform the Work.

3.2. Job Order Contractor Duties and Obligations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.2.7.6. The Police Department shall determine if construction activities or traffic hazards at the construction project *require* the use of Police Assistants or AZ Post Certified Peace Officers, alternatively, *if the Police Department determines that* flagmen are *sufficient*, it shall be the Contractor's responsibility to provide adequate personnel including flagmen to direct traffic safely. All City of Peoria projects shall use only City of

Peoria Police Assistants or City of Peoria AZ Post Certified Officers, unless the Police Chief or their designee has determined that no such assistants or officers are available. Arrangements for Police Assistant or Police Officer services should be made with the liaison officer at the Peoria Police Department via email at offduty@peoriaaz.gov.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.2.11.7. **Job Order Contractor Safety Representative.** Job Order Contractor shall assign, during performance of the Work, a designated safety representative to develop and monitor the project safety program.

The name, company address, and telephone number of the assigned individual shall be submitted to Owner by Job Order Contractor along with its safety policies and program procedures.

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

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

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

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

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

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

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

3.3. **Owner Rights and Obligations.**

3.3.1. **Suspension of Work.**

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

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

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

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

3.3.2.1. **Owner's Possession or Use.** While Owner has such possession or use, Job Order Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from Owner's possession or use, notwithstanding the terms of Subparagraph 3.2.1. If prior possession or use by Owner delays the progress of

the Work or causes additional expense to Job Order Contractor, an equitable adjustment shall be made in the Job Order price or the period of performance, and the Job Order shall be modified in writing accordingly.

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

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

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

4. JOB ORDER DOCUMENTS

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

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

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

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

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

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

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

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

4.4. Shop Drawing Modifications. If shop drawings show variations from the Job Order requirements, Job Order Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If Owner approves any such variation, Owner shall issue an appropriate Contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

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

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

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

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

5. MATERIAL AND WORKMANSHIP

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

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

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

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

6. SITE CONDITIONS

6.1. Site Investigation. Job Order Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Work or its cost, including but not limited to:

6.1.1. Conditions bearing upon transportation, disposal, handling, and storage of materials;

6.1.2. The availability of labor, water, electric power, and roads;

6.1.3. Uncertainties of weather, river stages, tides, or similar physical conditions at the site;

6.1.4. The visible conformation and conditions of the ground; and

6.1.5. The character of equipment and facilities needed preliminary to and during work performance.

6.2. Surface and Subsurface Investigation. Job Order Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by Owner, as well as from the drawings and specifications made a part of this Contract. Owner will provide to Job Order Contractor all subsurface investigation reports it has commissioned, and has knowledge of, that reasonably reflect expected conditions at the location of the Job Order.

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

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

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

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

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

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

7. JOB ORDER SCHEDULES

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

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

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

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

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

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

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

8. INSPECTION OF CONSTRUCTION AND ACCEPTANCE

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

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

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

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

8.2.3. Constitute or imply acceptance; or

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

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

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

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

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

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

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

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

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

9. INVOICING AND PAYMENT

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

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

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

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

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

9.5. Retention. Not applicable.

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

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

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

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

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

9.8.1. Completion and acceptance of the Work;

9.8.2. Presentation of a properly executed invoice;

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

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

10. CHANGES

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

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

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

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

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

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

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

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

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

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

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

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

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

11. INSURANCE & BONDS

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

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

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

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

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

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

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

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

11.3.2. Waiver of subrogation in favor of Owner.

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

11.5. Certificate of Insurance. Proof of compliance with these insurance requirements shall be furnished Owner in the form of an original certificate of insurance signed by an authorized representative or agent of the

insurance company(ies) within ten (10) days of execution of this agreement. Renewal or replacement certificates shall be furnished Owner not less than twenty-one (21) days prior to the expiration or termination date of the applicable policy(ies).

11.6. Subcontractor Insurance. Job Order Contractor shall require any and all subcontractors performing Work under this Contract to carry insurance of the types and with limits of liability as Job Order Contractor shall deem appropriate and adequate for the Work being performed. Job Order Contractor shall obtain and make available for inspection by Owner upon request current certificates of insurance evidencing insurance coverages carried by such subcontractors.

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

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

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

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

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

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

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

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

13. DISPUTES.

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

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

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

13.4. Partnering. If requested and mutually agreed upon, the Owner and Job Order Contractor will share in the expense of an initial facilitated partnering workshop, followed up by periodic refresher meetings at mutually agreed times. The goal of the workshop will be to identify common goals, common interests, lines of communication, and a commitment to cooperative problem solving.

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

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

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

Markham Contracting Co., Inc.
Heather Markham, Vice President
22820 N. 19th Avenue
Phoenix, AZ 85027
623-869-9100

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

14. TERMINATION AND DEFAULT

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

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

14.2.1. Stop work as specified in the notice;

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

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

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

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

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

14.2.5. Complete performance of the Work not terminated;

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

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

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

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

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

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

14.4.1.1.1. The cost of this Work;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14.14. Liquidated Damages. Liquidated Damages shall be assessed for each calendar of delay. Liquidated Damages shall be per MAG Specifications. If the contract is not terminated, the contractor shall continue performance and be liable to the Owner for the liquidated damages until the products are delivered or services performed. In the event the City exercises its right of termination, the contractor shall be liable to the Owner for any excess costs, and in addition, for liquidated damages until such time the Owner may reasonably obtain delivery or performance of similar supplies or services.

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

15. WARRANTY OF CONSTRUCTION

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

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

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

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

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

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

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

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

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

15.7.1. Obtain all warranties required by the Job Order;

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

15.7.3. Enforce all warranties for the benefit of Owner.

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

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

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

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

16. STANDARD TERMS AND CONDITIONS

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

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

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

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

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

16.2.3. The Job Order Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

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

16.2.5. The Job Order Contractor does not participate in, and agrees not to participate in during the term of any resultant contract, a boycott of Israel in accordance with A.R.S. §35-393.01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

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

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

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

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

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

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

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

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

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

16.12.2. The Job Order Contractor shall engage each of its subcontractor(s) and supplier(s) with written contracts which preserve and protect the rights of the Owner and include the acknowledgment and agreement of each subcontractor or supplier that the Owner is a third-party beneficiary of the contract. The Job Order

Contractor's agreements with its subcontractor(s) and supplier(s) shall require that in the event of default under, or termination of, this Contract for Construction, and upon request of the Owner, the Job Order Contractor's subcontractor(s) and supplier(s) will perform services for the Owner.

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

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

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

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

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

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

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

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

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

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

16.19.1. Waive the non-conformance.

16.19.2. Stop the work immediately.

16.19.3. Bring material into compliance.

16.19.4. This shall be accomplished by a written determination from the Owner.

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

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

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

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

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

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

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

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

available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction.

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

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

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

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

16.31.1 Davis-Bacon Act - (40 U.S.C. §276a-276a-5). All contracts or subsequent subcontracts for construction, alteration, renovation, or repair, including painting and decorating, of a public building or public work, or building or work, financed by federal funds which meets the \$2,000 threshold are required to pay the federal prevailing wage rate for each class of laborer or mechanic employed. Regulations applicable to grant-enabling statutes incorporating the Act can be found in 29 Code of Federal Regulations (CFR), Parts 1,3,5 and 7. These regulations stipulate that grant funds appropriated under statutes imposing the Davis-Bacon Act requirements shall not be paid to a grantee (the Department) until contractors or subcontractors performing work under the grant certify that they will comply with the Act's requirements. The Act also applies to any contract or subcontract for similar work on public grants from a federal agency, or where the federal government acts as guarantors of mortgages. The only exception is for the transportation of materials and supplies by persons who are not employed directly at the work site, but are employed solely to make deliveries to the work site.

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

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

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

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

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

16.32.2. If the Job Order Contractor subcontracts or intends to subcontract part or all of the work under a job order and if this contract includes descriptions of standard individual tasks, standard unit prices for standard

individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order, then:

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

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

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

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

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

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

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

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

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

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

16.35 ARRA Sec. 1605. Use of American Iron, Steel, and Manufactured Goods. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. (b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that-- applying subsection (a) would be inconsistent with the public interest;

- iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

- If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.
- This section shall be applied in a manner consistent with United States obligations under international agreements.

16.36 ARRA Sec. 1606. Davis-Bacon Act. Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

16.37 Compliance with Davis-Bacon Act (40 U.S.C. §276a-276a-5) Prevailing Wage Requirements (ARRA Section 1606). All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and the through the Federal Government pursuant to the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code. In addition, all covered contracts shall include the standard contract clauses regarding prevailing wages and benefits included in the United States Department of Labor regulations found at 29 Code of Federal Regulations (“CFR”) § 5.5, which are incorporated by reference in this contract. The contractor shall comply with the requirements of 29 CFR Part 3, which are also incorporated by reference in this Contract.

The contractor or subcontractors shall insert in any subcontracts the clauses contained in 29 CFR § 5.5(a) (1) through (10) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the United States Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the City, the State of Arizona (“State”), the United States Department of Labor, or their employees or their representatives.

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

No part of this contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

16.38. Use of American Iron, Steel, and Manufactured Goods – Buy American Requirements (ARRA Section 1605):

The contractor acknowledges to and for the benefit of the City (“Purchaser”) and the State that it understands the goods and services under this contract are being funded with monies made available by the ARRA (or are being made available for a project being funded with monies made available by the ARRA) and such law contains provisions commonly known as “Buy American” that require all of the iron, steel, and manufactured goods used in the project be produced in the United States (“Buy American Requirements”) including iron, steel, and

manufactured goods provided by the Contractor pursuant to this contract. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this contract, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this contract necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

16.39. Whistleblower Protections Under The ARRA:

(a) The Contractor shall post a notice of employees' rights and remedies for whistleblower protections provided under Section 1553 of the ARRA (Pub. L. 111-5).

(b) The Contractor shall require that this provision be included in all subcontracts.

16.40. Reporting Requirements under the ARRA:

(a) This Contract requires the Contractor to provide products and/or services that are funded under the ARRA. Section 1512(c) of the ARRA requires each contractor to report on its use of Recovery Act funds under this Contract. These reports will be made available to the public.

(b) Reports from contractors for all work funded, in whole or in part, by the ARRA, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.

(c) The Contractor shall report the following information, using the online reporting tool available at www.FederalReporting.gov:

(1) The City of Peoria contract and order number, as applicable.

(2) The amount of ARRA funds invoiced by the Contractor for the reporting period.

(3) A list of all significant services performed or supplies delivered, including construction, for which the Contractor invoiced in the calendar quarter.

(4) Program or project title, if any.

(5) A description of the overall purpose and expected outcomes or results of the Contract, including significant deliverables and, if appropriate, associated units of measure.

(6) An assessment of the Contractor's progress towards the completion of the overall purpose and expected outcomes or results of the Contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the Contract (or portion thereof) funded by the ARRA.

(7) A narrative description of the employment impact of work funded by the ARRA. This narrative should be cumulative for each calendar quarter and only address the impact on the Contractor's workforce. At a minimum, the Contractor shall provide—

(i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in Federal Acquisition Regulation (FAR) 2.101). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.

(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the Contract is awarded if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

(10) For any first-tier subcontract funded in whole or in part under the ARRA, that is over \$25,000 and not subject to reporting under paragraph 9, the Contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by Section 1512 of the ARRA. The Contractor shall provide detailed information on these first-tier subcontracts as follows:

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) The applicable North American Industry Classification System (NAICS) code.

(vi) Funding agency.

(vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(viii) Subcontract number (the contract number assigned by the prime contractor).

(ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—

(A) In the subcontractor's preceding fiscal year, the subcontractor received—

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

16.41. Central Contractor Registration Required:

(a) The Contractor is required to properly register and maintain an updated registration with the Central Contractor Registration (CCR), which is the primary Federal Government repository for contractor information required for the conduct of business with the Federal Government. The requirements for such registration are set forth in the Federal Acquisition Regulation (FAR), including the establishment of a “Data Universal Numbering System (DUNS) number,” the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

(b) “Registered in the CCR database” means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Federal Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(c) The DUNS number will be used by the City to verify that the Contractor is registered in the CCR database.

(d) If the Contractor does not become registered in the CCR database in the time prescribed by the City, the City will proceed to award the Contract to the next otherwise successful registered responding entity.

(e) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the City’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this Contract and is not a substitute for a properly executed contractual document.

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

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

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

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

(d) *Payrolls and basic records.*

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security

number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

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

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

16.43 Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

ATTACHMENTS

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

ATTACHMENT A
JOC General Scope of Services

1.0 GENERAL INFORMATION

1.1 This is a fixed price indefinite quantity type Contract for the performance of various Citywide Civil/Site Work on an as-needed basis as may be required by Owner. The specific work requirements will be identified in Job Orders to be issued by Owner.

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

2.0 DOCUMENTS

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

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

3.0 WORK AUTHORIZATION

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

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

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

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

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

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

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

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

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

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

4.0 SCHEDULING OF WORK

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

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

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

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

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

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

5.0 QUALITY ASSURANCE/QUALITY CONTROL PROGRAM

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

6.0 DESIGN

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

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

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

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

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

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

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

7.0 PROJECT AS-BUILTS

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

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

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

8.0 UTILITY COMPANY COORDINATION

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

9.0 TEMPORARY SANITATION FACILITIES

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

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

10.0 DUST CONTROL AND WATER

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

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

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

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

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

11.0 ELECTRICITY

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

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

12.0 WORK BY OWNER

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

ATTACHMENT B

SIQ & Contractor's Response

(See Attached)



SOLICITATION AMENDMENT

Materials Management Procurement

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

Solicitation No: P17-0020
Description: JOC for Citywide Civil/Site Work
Amendment No: Two (2)
Solicitation Due Date: November 8, 2016
Solicitation Due Time: 5:00 p.m.

Buyer: Lisa Houg

A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.

The SOQ is being amended as indicated below:

4.2 Appendix

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

- Subcontractor Selection Plan.
- Scanned copies of the Arizona Registrar of Contractors License Identification Card(s). Multiple ID cards may be placed on the same page.
- Statement of bonding capacity from an A- or better Surety Company, including the maximum amount for a single project and aggregate project amount.
- ~~A copy of a recent project Safety and Health Plan.~~ **The Safety and Health Plan will not be required as part of the submittal, but may be required of the shortlisted contractors.**
- Provide statement identifying any contract or subcontract held by the Contractor or officers of the company, which as been terminated within the last five (5) years for cause.
- Identify any claims arising from a contract owner, which resulted in litigation or arbitration within the last five (5) years. Briefly describe the circumstances and the outcomes.

In addition, the one (1) page cover letter prepared on the company's letterhead and signed by an individual authorized to sign on behalf of the company will **NOT** count toward the maximum number of pages.

All other provisions of this Solicitation shall remain in their entirety.

Vendor hereby acknowledges receipt and agreement with the amendment.

Signature Date

Typed Name and Title

Company Name

Address

City State Zip

The above referenced Solicitation Amendment is hereby Executed

November 1, 2016

at Peoria, Arizona

Lisa Houg, CPPB
Contract Officer



SOLICITATION AMENDMENT

Materials Management Procurement

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

Solicitation No: P17-0020
Description: JOC for Citywide Civil/Site Work
Amendment No: One (1)
Solicitation Due Date: November 8, 2016
Solicitation Due Time: 5:00 p.m.

Buyer: Lisa Houg

A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.

The SOQ is being amended to revise and replace Section 4.1, Submittal Information and to delete Section 3.1, SOQ Format, Section B.2. as indicated below:

4.1 Submittal Information

~~The company's responses to the SOQ criteria in Section 3 – Statement of Qualifications in order A-C and titled as listed. The SOQ submittal pages shall be 8 ½" X 11 and are limited to no more than ten (10) pages. Adherence to the maximum page criterion is critical and each page with criteria information will be counted. Pages that have project photos, charts, and graphs will count toward the maximum number of pages.~~

4.1 Submittal Information

The SOQ submittal pages shall be 8 ½" X 11 and are limited to no more than ten (10) pages and must include the following:

- A one page cover letter prepared on the company's letterhead and signed by an individual authorized to sign on behalf of the company.
- The company's responses to the SOQ criteria in Section 3 – Statement of Qualifications in order A-C and titled as listed.
- Submit one (1) original and five (5) copies.
- Font size should not be smaller than 10 point Times New Roman or Arial and page margins shall be ½" minimum.

Adherence to the maximum page criterion is critical and each page with criteria information will be counted. Pages that have project photos, charts, and graphs will count toward the maximum number of pages.

3.1 SOQ Format, B. Local Experience & Qualifications of the Contractor

~~2. Describe the Contractor's management and organizational abilities.~~

All other provisions of this Solicitation shall remain in their entirety.

Vendor hereby acknowledges receipt and agreement with the amendment.

Signature Date

Typed Name and Title

Company Name

Address

City State Zip

The above referenced Solicitation Amendment is hereby Executed

October 25, 2016

at Peoria, Arizona

Lisa Houg, CPPB
Contract Officer



STATEMENT OF QUALIFICATIONS

Solicitation Number: **P17-0020**

Materials Management Procurement

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

REQUEST FOR STATEMENT OF QUALIFICATIONS

JOB ORDER CONTRACT
FOR

CITYWIDE CIVIL/SITE WORK

SOLICITATION NUMBER: P17-0020

Due Date: November 8, 2016, by 5:00 PM Arizona Time

Point of Contact:
Lisa Houg
Contract Officer
Lisa.Houg@peoriaaz.gov
623-773-7191



STATEMENT OF QUALIFICATIONS

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SECTION 1 – INTRODUCTION

1.1 Introduction

The City of Peoria Arizona, Development & Engineering Department is seeking experienced Contractors to provide Civil/Site work, and related services, on an as-needed basis at various project locations throughout the City of Peoria utilizing Job Order Contracting (JOC) project delivery method.

It is the intent of the City of Peoria to select two (2) contractors for contract award. The initial term of the JOC will be for a minimum of one (1) year and may be renewed up to four (4) additional one-year terms. Renewal of the contract will be based on the successful performance of the JOC Contractor and the needs of the City. The individual job order maximum amount is \$3,000,000. It is the City's intent to enter into a cost plus fee structure.

During the term of the JOC, work is performed as a series of individual job orders. Individual projects may require the expenditure approval of Peoria City Council. Each job order, initiated by the owner, is defined cooperatively by the owner and contractor. A scope, schedule and price are negotiated and agreed upon. Then the contractor is directed to proceed with the work. Job Order Contracting may include design services, pre-construction services, construction work, maintenance and as-built documents.

1.2 Cooperative Purchasing

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

1.3 Project Budget

The City of Peoria CIP identifies funding for projects in fiscal year of 2017 and shows planned projects for the next ten (10) years. A copy of the CIP can be viewed at (<https://www.peoriaaz.gov/NewSecondary.aspx?id=54973>). The approved 2017 budget is available to fund various projects utilizing the awarded JOC contract. Projects may extend into the next fiscal year and beyond but in no instance will any one project under this JOC



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exceed \$3,000,000.

SECTION 2 – PROJECT DESCRIPTION & SCOPE OF WORK

2.1 Description

This Job Order Contract is issued to assist the City of Peoria with general construction services, together with engineering services as necessary, related to major and minor pavement construction projects. Interested contractors will have the ability to show related experience and a proven track record in projects of the same nature and magnitude. The selected contractors will be expected to deliver turn key projects, including all permitting and regulatory requirements.

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

2.2 Scope of Work

- A. The City of Peoria maintains a network of streets and pavements. These pavements include streets, parking areas, sidewalks, handicap ramps, curbs, gutters, privacy and/or noise walls, trails, multi-use paths, and park pavements. Public improvements within the right of way also includes asphalt and concrete pavements, as well as drainage features, shoulders, guard rails, barriers, street lights, bus stops, benches, vaults, boxes, conduit, and other features that must be maintained. This Job Order Contract (JOC) will be focused on the maintenance, repair and construction of such work within the public right of way/easements.
- B. Although the City also has a network of traffic signals, this statement of work does not focus on traffic signals. Although minor signal work may be required under this JOC, that work will be ancillary to the main pavement work.
- C. Minor design services or post design services may be required for some of the projects. The scope of work for design or post design services, when applicable, will be defined by the City and included in the job order. For job orders that require design services, the contractor shall use Arizona Registered professionals to prepare and seal documents produced by the registrant. Any as-builts required to be completed as part of the post design services shall be in accordance with Chapter 7 of the City of Peoria Infrastructure Design Guidelines.
- D. Construction services also covered by the JOC may include Preconstruction Services, but are not limited to the following:
 - Serve as the general contractor during construction.
 - Coordinate and manage subcontractors during construction.



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- Coordinate with various utilities.
- Public meetings and notifications (when required).
- Arrange for procurement of materials and equipment.
- Schedule and manage site operations.
- Continue use of a collaborative process.
- Provide quality controls.

E. The successful contractors shall have experience, knowledge, and ability to accomplish the following tasks. Construction services may include, but are not limited to; all labor and equipment to provide work for the tasks listed below include maintaining, repair and construction of existing features as well as new pavement and equipment as required.

1. Obtain all necessary permits required to complete the job order, including but not limited to; Engineering Off-site, haul route, stockpile, SWPPP, dust control, traffic control plans, etc.
2. Maintaining shoulders including grading, placement of surface treatment and sealing.
3. Working with the City to develop and implement solutions for remaining compliant with the PM10.
4. Repairing or installing guard rails, handrails and road side barriers.
5. Fence work including block, iron, steel, chain link, and other types.
6. Subgrade preparation including compacting native soil, placing and compacting ABC and grading.
7. Placing asphalt pavements including full depth sections, overlays, patches and repairs.
8. Pavement maintenance and rehabilitation; including but not limited to; crack and joint sealing, applying various types of seals, slurry, fog, chip, and other asphalt rejuvenation methods, milling, cutting and removing pavements both concrete and asphalt.
9. Coordinating with utility companies to replace, relocate, remove or install street light systems, traffic signal poles, mast arms, control equipment, traffic signal equipment, loop detectors and detection equipment.
10. Utility Locating (potholing) underground utilities and obstructions.
11. Placing/relocating conduit and boxes and be able to place vaults, hand holes and pull boxes.
12. Removing and placing concrete pavements including curb and gutter, driveways, roadways, ramps, sidewalks, culverts, boxes, and hard-scape features, walls, abutments, retaining walls brick pavers and landscape features.
13. Constructing ADA accessible features including: ramps, warning features, way-making features, and other improvements to meet ADA requirements.
14. Drainage features including scuppers, gutters, valley gutters, drains, pipes, basins, lined and unlined swales and channels, dry-wells, catch basins and



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- culverts/headwalls.
- 15. Striping and signing including, design of plans and specifications, providing and installing project signs, and installing striping, symbols, raised pavement markers and signage.
- 16. Surface preparation and painting of equipment within the right of way.
- 17. Preparing traffic control plans, providing traffic set-up in accordance with the approved traffic control plans and barricading work areas.
- 18. Earthwork: site rough and finish grading.
- 19. Stamped, painted and thermoplastic decorative asphalt.
- 20. Bikeways, multi-use paths: concrete, asphalt, granite, natural materials.
- 21. Minor wet and/or dry utility installation, relocation and adjustments.
- 22. Minor landscaping, irrigation systems and controls.

2.3 Project Information

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

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

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

SECTION 3 - STATEMENT OF QUALIFICATIONS

3.1 SOQ Format

The JOC contractors will be selected through a qualifications based selection process. The City expects to award based on the requirements in this solicitation. The contractors selected for qualification will be the contractors whose qualification is responsive,



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responsible, and are the most advantageous to City, as determined by City in its sole discretion. The City reserves the right to add, delete, or modify any part of this solicitation at City's sole discretion. The City will evaluate contractors based on the overall value of each qualification. Contractors interested in providing services must submit a Statement of Qualifications (SOQ) that addresses the points as outlined.

A. Method of Approach to Performing the Required Services

1. Describe your experience in the advantages and disadvantages of the JOC alternative delivery method compared to traditional design-bid-build.
2. Describe successful processes your company has developed for prior work that specifically parallels the JOC process. Provide specific details and methodology to demonstrate why each process was successful including advantages over commonly utilized processes. Include a description of the software system(s) successfully used by your company for project estimating, planning, scheduling and managing construction and the unique processes you've developed for its use in JOC (or comparable) contracts.
3. Discuss the key components and advantages of your company's selection process for subcontractors. Demonstrate your understanding of the City's requirement that subcontractor selection must be based on qualifications alone or a combination of qualifications and price, not on price alone. Provide a detailed proposed Subcontractor Selection Plan attached as an Appendix.
4. Discuss the Contractor's intention of self-performance for each Job Order and indicate percentage of self-performance you intend to provide under this contract.
5. Discuss what efforts the Contractor would initiate to meet the project budget and schedule during the negotiation process.

B. Local Experience & Qualifications of the Contractor

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.
2. Describe the Contractor's management and organizational abilities.
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.
4. Provide project information where the Contractor provided construction services similar to those listed in Section 2 – Scope of Work. The City may take into



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consideration the number of Job Order Contracts a company may have, the resource investment of the contractor in current City work, and the amount of previous work recently performed for the City as part of the selection process.

C. Qualifications & Experience of Key Personnel

1. Identify and list the qualifications and experience of the key people who will be responsible for performing the work under the resulting contract.
2. Discuss key personnel and their perspective and experience on partnering, quality control, project scheduling, claims, dispute resolution, changes in the Scope of Work, construction safety, value engineering, balancing workloads, and ways to reduce costs to the Owner.
3. Provide project information for up to 5 key personnel expected to be assigned to this JOC where the Contractor provided construction services similar to those listed in Section 2 – Scope of Work.

SECTION 4 - SUBMITTAL REQUIREMENTS

4.1 Submittal Information

The company's responses to the SOQ criteria in Section 3 – Statement of Qualifications in order A-C and titled as listed. The SOQ submittal pages shall be 8 ½" X 11 and are limited to no more than ten (10) pages. Adherence to the maximum page criterion is critical and each page with criteria information will be counted. Pages that have project photos, charts, and graphs will count toward the maximum number of pages.

4.2 Appendix

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

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

SECTION 5 - SELECTION PROCESS AND EVALUATION CRITERIA

5.1 Evaluation Process



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

5.2 Evaluation Criteria

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

- B. Interviews
 - 1. Presentation 500 points
 - 2. Response to Questions 500 points

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

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

5.3 Critical Dates

The following schedule has been prepared for this selection process:

Submittals Due	November 8, 2016
Notification of Interviews	November 30, 2016
Interviews (shortlist only)	December 6, 2016
Contractor Notification	December 7, 2016

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

SECTION 6 – GENERAL INFORMATION

6.1 General Information



STATEMENT OF QUALIFICATIONS

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- **Instructions:** The City of Peoria shall not be held responsible for any oral instructions. Any changes to this SOQ shall be in the form of a published addendum.
- **Contact:** Contact with City of Peoria staff, elected or appointed officials, or selection committee members concerning this SOQ, at any time, in any venue, is strictly prohibited, except as described in section 6.3 below, and may be grounds for disqualification.
- **Costs:** The City of Peoria will not be responsible for any costs incurred by any contractor submitting an SOQ or responding to this notice. The City reserves the right to waive any irregularities in any submittal and to reject all submittals and re-advertise or cancel the project in its entirety, at its sole discretion. The City reserves the right to request clarification or additional information.
- **Material:** All materials submitted in response to this solicitation become the property of the City, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right.
- **Compliance:** The selected contractor will be required to comply with the “Legal Arizona Workers Act.”

6.2 Protest Policy & Procedures

- The City of Peoria Protest Policy and Procedures are contained within the City of Peoria Procurement Code, Chapter 2- Administration, Section 2-321 which is available online at <http://www.peoriaaz.gov/content2.aspx?ID=2071>.
- The specific protest procedures are contained in the Materials Management “Procurement Guidelines” and can be accessed at <https://www.peoriaaz.gov/NewSecondary.aspx?id=54937> under the “Downloads” box on the right side of the web page.

6.3 Questions

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



November 8, 2016

Mrs. Lisa Houg
Contract Officer
City of Peoria
8401 W. Monroe Street
Peoria, Arizona 85345

SUBJECT Job Order Contract for Citywide Civil/Site Work: Solicitation Number P17-0020

Dear Mrs. Houg:

Markham Contracting Co., Inc. appreciates the opportunity to submit our qualifications for the City of Peoria's Job Order Contract for Citywide Civil/Site Work. We are looking forward to partnering with the City to provide JOC services.

The Markham team has experience constructing projects with similar scope. We have assisted owners and engineers with design modifications while creating award-winning projects throughout Arizona. We understand the importance of providing quality JOC services on schedule and within budget. We look forward to providing design experience, preconstruction, permitting, road construction knowledge, and quality craftsmanship for the City of Peoria.

Based in Arizona and owned by a fourth generation Arizonan, we have a tradition of providing quality construction since 1977. With some 200 employees based out of our Phoenix office, we have sufficient staff, resources, and experience to deliver all needs required - big or small.

Our key strengths include:

- **Civil Construction Expertise** Markham has constructed large and small civil and roadway projects throughout Maricopa County since 1977.
- **Self Performance** With a team of some 200 people based in the Northwest Valley, we offer our own grading, paving, and underground crews supported by our own equipment. Markham's in-house personnel are skilled and ready to perform your projects.
- **Local Knowledge** We are familiar with the people in the City of Peoria. Our team has partnered on award-winning projects and has been recognized for partnering and overall engineering and construction.
- **Meeting Demanding Schedules** With available staff and local expertise in grading, underground, and paving services, Markham is able to respond rapidly to emergency work. We have completed multiple emergency projects for cities and various agencies ranging from storm response to landslide repairs.
- **Capacity** Markham has experienced project managers, crews, and equipment that are based in the Northwest Valley. We are able to respond quickly and perform many projects simultaneously, from small to large, while meeting schedule and budget requirements.

We look forward to providing JOC services to the City of Peoria.

Sincerely,

Heather Markham
Vice President
hmarkham@markhamcontracting.com | cell 623.695.2154

Phoenix 623-869-9100 | Tucson 520-207-7117

AZ# ROC072454 A | AZ# ROC046809 B-4 | NV# 0029436 A | NM# 50156 | CA# 963067 A



A METHOD OF APPROACH

A1 DESCRIBE YOUR EXPERIENCE IN THE ADVANTAGES AND DISADVANTAGES OF THE JOC ALTERNATIVE DELIVERY METHOD COMPARED TO TRADITIONAL DESIGN-BID-BUILD.

On our previous JOC projects we learned that the advantage of the JOC Alternative Delivery Method over the traditional Design-Bid-Build method is fast and timely project delivery.

Additional advantages of the JOC method include:

- Low overhead cost of construction procurement and delivery. Markham self-performs paving, grading, wet utilities and demo in-house.
- Development of a partner relationship based on work performance
- Transparency with GMP
- Elimination of change orders

Having been brought in early in the JOC process with other projects, we have also found that partnering has reduced or eliminated punch lists. Partnering has resulted in high-quality construction and service and enhanced quality control. Collaboration with Markham and our field staff throughout the process delivers a complete project within schedule and budget.

The JOC alternative delivery method provides minimal risk for the City. As a JOC contractor we reduce risk by being involved early in the process and understanding all of the scope and requirements needed by the project, reducing risk to schedule and budget.

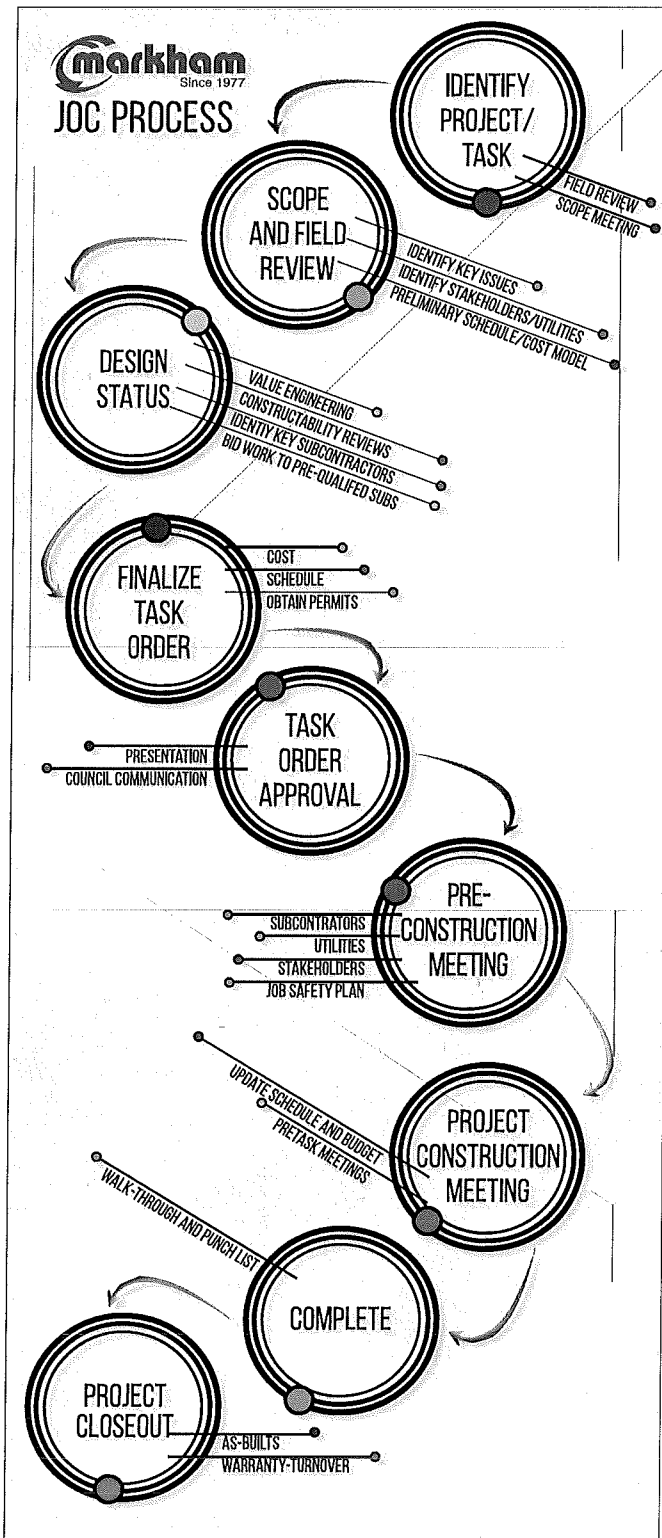
The JOC method encourages a win-win attitude, benefiting both the City and Markham, and encouraging a long-term relationship.

A2.1 DESCRIBE SUCCESSFUL PROCESSES YOUR COMPANY HAS DEVELOPED FOR PRIOR WORK THAT SPECIFICALLY PARALLELS THE JOC PROCESS. PROVIDE DETAILS AND METHODOLOGY TO DEMONSTRATE WHY EACH PROCESS WAS SUCCESSFUL INCLUDING ADVANTAGES OVER COMMONLY UTILIZED PROCESSES.

As a JOC contractor for over 20 years, Markham has worked for agencies using minimized plans and virtually no need for specifications.

Simplified design documents and acquisition processes negate the need for complicated and repetitive contract documents and reduce contract administrative costs.

Markham has a commitment to respond to our clients needs. Markham benefits the City's JOC process by being able to perform small and large task assignments. Our team is comprised of hands-on professionals capable of tackling small tasks in a timely manner and large tasks with quality and foresight throughout the process. Many of these tasks are needed on an expedited schedule.



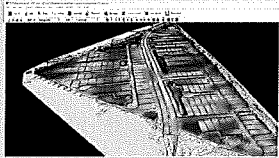
Markham has a separate management these tasks are needed on an expedited schedule per the owners request. Markham has a separate management tracking system for small task orders and jobs. This separate tracking system ensures that these projects are managed

MARKHAM CONTRACTING CO., INC.



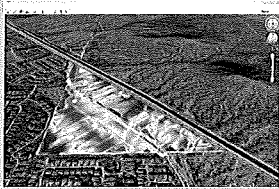
A2.2 INCLUDE A DESCRIPTION OF THE SOFTWARE SYSTEM(S) SUCCESSFULLY USED BY YOUR COMPANY FOR PROJECT ESTIMATING, PLANNING, SCHEDULING AND MANAGING CONSTRUCTION AND THE UNIQUE PROCESSES YOU'VE DEVELOPED FOR ITS USE IN JOC (OR COMPARABLE) CONTRACTS.

When we work on JOC's, 3-D modeling (using AGTEK software) created from



drawings and CAD files are utilized during the preconstruction phase. These quick take-offs offer a visual representation of the site that is used to establish accurate bids, budgets, and schedules. The 3-D model enables us to quickly do quantity takeoffs and offer multiple options to our JOC clients.

The 3-D AGTEK model is overlaid on a Google Earth image to verify accuracy in the field, to compare existing site



conditions with new elevations, and to identify any potential conflicts.

Data from the 3-D model is used to meet grade in the field. This image represents what is seen by a field operator.

Additionally, we have a DJI Phantom 3 Professional Quadcopter drone and an FAA-certified commercial drone pilot on staff. This allows for pre-project photos to be taken that help confirm that



we have not negatively impacted site neighbors and their properties during their construction process, alleviating homeowner and business concerns.

A METHOD OF APPROACH

properly and all are completed in the time frame that meets the owner's needs.

Markham's assigned project team has extensive experience in roadway construction with agencies throughout the valley and. The assigned staff has performed many similar projects in the past. We are a preferred go-to contractor for many agencies.

Further, Markham offers on-call emergency services. As such, our employees are accustomed to working with tight time constraints and offering rapid response time to items such as public utility outages.

A3 DISCUSS THE KEY ADVANTAGES AND COMPONENTS OF YOUR COMPANY'S SELECTION PROCESS FOR SUBCONTRACTORS. DEMONSTRATE YOUR UNDERSTANDING OF THE CITY'S REQUIREMENT THAT SUBCONTRACTOR SELECTION MUST BE BASED ON QUALIFICATIONS ALONE OR A COMBINATION OF QUALIFICATIONS AND PRICE, NOT ON PRICE ALONE.

Markham's approach to a qualifications-based selection of subcontractors follows the guidelines in A.R.S. §34-603 (C)(7):

SELECTING QUALITY SUBCONTRACTORS

The City of Peoria will have as much involvement in the prequalification process as they choose. Once all the work in each GMP is understood, MCCI will recommend a pool of prequalified subcontractors to complement our team. We will then submit the list to the City for review, drawing from our list of over 1,100 prequalified subcontractors that have been agreed upon by the City and Markham.

CONTRACTOR SELECTION CRITERIA

The majority of subcontractors will be selected based upon qualifications and price. Each subcontractor will be prequalified based upon experience and performance, as well as the availability of resources to complete the work package. In some instances schedule may be used as a qualification criterium. When bids are received, each one will

be clarified. Pricing is then evaluated. Weight is applied to pricing based upon the risk evaluation of the work package, schedule, workload, and the availability of resources from subcontractors.

Markham's *Subcontractor Selection Plan* is included in the Appendix.

A4 DISCUSS THE CONTRACTOR'S INTENTION OF SELF-PERFORMANCE FOR EACH JOB ORDER AND INDICATE PERCENTAGE OF SELF-PERFORMANCE YOU INTEND TO PROVIDE UNDER THIS CONTRACT. We self perform over 72% of our projects, and 80-90% on JOC's. For the City of Peoria JOC project, Markham intends to self perform grading, paving, seal coating, asphalt resurfacing, storm water pipes, drainage channels, wet utilities construction, and related appurtenances, as we have for municipal projects for nearly 40 years. We have worked hard to develop strong relationships with a number of subcontractors who we consistently collaborate with. If there is an established SBE goal, we will meet or exceed the goal by analyzing capacities and abilities to exceed or excel on work assigned.

A5 DISCUSS WHAT EFFORTS THE CONTRACTOR WOULD INITIATE TO MEET THE PROJECT BUDGET AND SCHEDULE DURING THE NEGOTIATION PROCESS.

As a self-performing contractor, accurate budget and scheduling, understanding of available resources, and timely communication are integral to the preconstruction and construction process.

We integrate the vast experience of our estimating staff with our ability to communicate directly with field personnel. This results in timely, responsive, decision making.

We are 100% locally-based in Phoenix, Arizona. Our home office, near Dear Valley Airport, is in close proximity to the City of Peoria. Thus, all levels of the Markham organization are readily available to address project needs. When promises are made, they are kept.

MARKHAM CONTRACTING CO., INC.

B LOCAL EXPERIENCE & QUALIFICATIONS

B1 PROVIDE A GENERAL DESCRIPTION OF ALL SERVICES PROVIDED BY THE CONTRACTOR OR TEAM THAT IS PROPOSING TO PROVIDE JOC SERVICES.

Markham self-performs a large percentage of the work identified. We are not proposing any subcontractors or other team members at this time.

As an Arizona-headquartered contractor since 1977, Markham has locally-based crews and industry partners who self perform all aspects of work required for the City of Peoria's civil/site JOC. We perform all of these services with an emphasis on customer satisfaction, staying on budget, maintaining schedules, promoting safety, and the promise of keeping our word.

SERVICES INCLUDE BUT ARE NOT LIMITED TO:

- Earthwork: Site rough and finish grading
- Complete and partial road construction
- New asphalt paving, including mill and overlay
- Asphalt resurfacing, micro surfacing, and slurry seals
- Stamped, painted, and thermoplastic decorative asphalt

- Concrete removal and/or placement, sidewalks, valley gutters, and curbs
- Install and/or relocate guardrails, handrails, and road side barriers
- Bikeways and multi-use paths: concrete, granite, and natural materials
- Traffic signage, striping, markings, symbols, and barricades
- Install and/or relocate traffic signal poles, mast arms, and control equipment
- Install and/or relocate or remove loop detectors and detection equipment
- Minor electric line installation and relocation
- Install and/or remove, storm water pipes, culverts, channels, headwalls, and catch basins

Markham self performs a large percentage of the work identified. We are not proposing any subcontractors or other team members at this time.

B2 LIST THE ARIZONA PROFESSIONAL AND CONTRACTOR LICENSE(S) HELD BY THE CONTRACTOR.

Arizona, General Engineering Class A
#ROC072454 A (Contractor)

Arizona, Residential Class B
#ROCC046809 B-4 Contractor)

Arizona, General Commercial Class B-1
#ROC144801 (Contractor)

B3 PROVIDE PROJECT INFORMATION WHERE THE CONTRACTOR PROVIDED CONSTRUCTION SERVICES SIMILAR TO THOSE LISTED IN SECTION 2 – SCOPE OF WORK.



**BELL ROAD MEDIAN INSTALLATION
SURPRISE, ARIZONA | DIRECT SELECT**

Markham was direct selected by the City of Surprise to install a median in Bell Road on an aggressive schedule. Surprise Town Council promised a project to residents on Bell Road two weeks before Thanksgiving to install a median opening before Spring Training, but not to interfere with holiday traffic. Surprise Engineering group contacted Markham knowing that we had knowledge in the area and could deliver on time. Markham was able to complete the project as a design build with limited plans and was able to evaluate several alternatives in conjunction with Surprise Engineering and Traffic Engineering staff, remove the median, move electrical conduits, reinstall the modified median opening, install brick pavers, and repave the roadway two weeks before the opening of Spring Training.

continued



MARKHAM CONTRACTING CO., INC.

B LOCAL EXPERIENCE & QUALIFICATIONS



ALSDORF ROAD RECONSTRUCTION ELOY, ARIZONA | JOC

The Alsdorf project was a JOC residential roadway repaving and reconstruction that went through the City of Eloy. Project services included pulverizing the existing asphalt and chip seal mix, blending new ABC with the existing pulverized material, regrading, and paving a new asphalt surface. This was accomplished while maintaining access to all the neighboring homes and businesses, entailing excellent community communication and coordination.



SR 260 CROSSOVER PAYSON, ARIZONA | JOC

This JOC project was built as part of an agreement between ADOT and Arizoon State University. ADOT and ASU agreed to build this crossover on SR 260 and needed the project completed in time for ASU's Camp Tonotozona scrimmage. ADOT contacted Markham and recommended us to ASU as a go to contractor that can complete projects on time.



INA ROAD MARANA, ARIZONA | JOC

This JOC project was completed for the Town of Marana to complete a storm drain project that was inadvertently left out of an ADOT sponsored project. With only a few weeks before the project was to be advertised for low bid the Town of Marana contracted Markham to install a storm drain, repair a catch basin and grade the area. The project was completed without plans and was completed through mutual partnering between Marana and Markham.



OLD CAREFREE PAVING PEORIA, ARIZONA | DIRECT SELECT

This project was a direct select by the City of Peoria. Markham served as the general contractor to a bridge and roadway construction along Old Carefree Highway at the Beardsley Canal crossing. This new crossing included a portion of grading and paving that the City of Peoria was responsible for. Markham worked with the developer, APS and the City of Peoria to evaluate alternatives and provide grading and paving for the new canal crossing that maintained the existing dirt road traffic through the area. Markham self performed the grading and paving for the City of Peoria and coordinated with City Public Works staff to install the signing and striping.

MARKHAM CONTRACTING CO., INC.



B LOCAL EXPERIENCE & QUALIFICATIONS

MARKHAM CONTRACTING CO., INC.



INDIAN SCHOOL IMPROVEMENTS GOODYEAR, AZ | DESIGN-BID-BUILD

Indian School was constructed between SR303 and Sarival Avenue. This project represented the last bit of road that didn't have four lanes of traffic. Prior to construction we collaborated with 811 and utilized MCCI's soft-dig machine to locate all utilities. MCCI met with the farmers in the area to coordinate the installation of a new pipeline and work with them to insure that they could water their crops. During the demolition of over 1,500 feet of concrete pipe and ditches and installation of landscape areas, utility adjustments, and striping, the public was able to travel with no closure or flagging operation. Utility adjustments and striping.



AK-CHIN AIRPORT

MARICOPA, ARIZONA | BEST VALUE

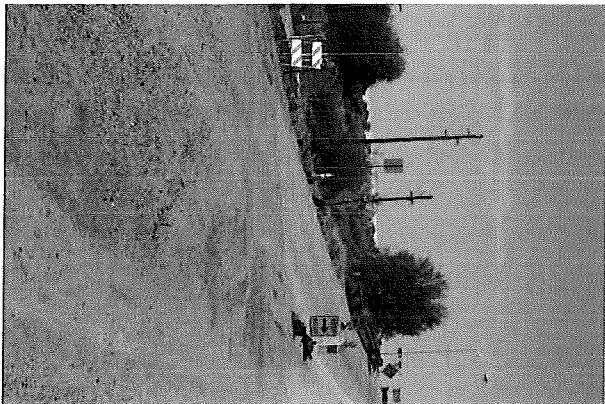
Markham Contracting completed the Ak-Chin Airport for the Ak-Chin Indian Community. The project consisted of excavating for a new taxiway that included an aggregate base course, hot mix asphalt, and concrete bollards around a preexisting fuel tank. Because the site is an active airport, Markham worked closely with airport representatives to insure that air traffic was not disturbed and that the appropriate people had continuous access to the site.



FARRELL ROAD IMPROVEMENTS

MARICOPA, ARIZONA | BEST VALUE

Farrell Road is a project that Markham Contracting completed for the Ak-Chin Indian Community. The project consisted of 2.5 miles of landscape beautification on both the north and south sides of road. Included were ten ramada bus stops, a stabilized dog path with a steel header, prefabricated pedestrian bridge to cross the Smith Wash, micro-slurry seal on the roadway with striping, and the installation of solar street lights. Farrell Road is the community's main travel corridor for vehicles and pedestrians.



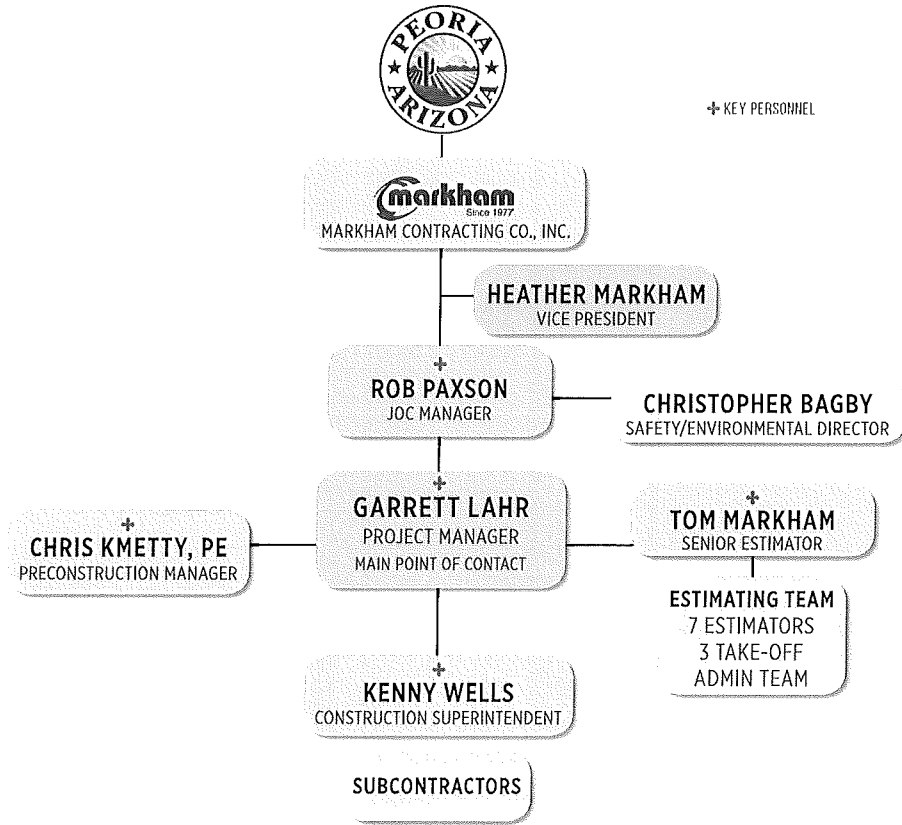
SUNSHINE BOULEVARD

ELOY, ARIZONA | JOC

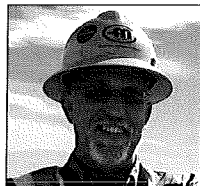
The Sunshine project was a design/build JOC for the City of Eloy. It entailed the road reconstruction and widening of 500 feet of Sunshine Boulevard to provide access from the I-10 to the local truck stop and other support facilities in the area. Work included rough grading, asphalt paving, striping, concrete, and traffic control phasing so as not to shut down access for the local businesses, including the 24-hour truck stop. We worked with City of Eloy to make this a test section (given the heavy traffic that flows through the area) for the fiber-reinforced asphalt. We worked with Rick Engineering on this project.

C QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

C1 IDENTIFY AND LIST THE QUALIFICATIONS AND EXPERIENCE OF THE KEY PEOPLE WHO WILL BE RESPONSIBLE FOR PERFORMING THE WORK UNDER THE RESULTING CONTRACT.



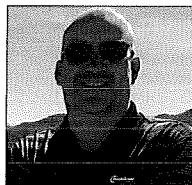
HEATHER MARKHAM
VICE PRESIDENT
13 YEARS' INDUSTRY EXPERIENCE
13 YEARS AT MARKHAM



ROB PAXSON
JOC PROJECT MANAGER
35 YEARS' INDUSTRY EXPERIENCE
7 YEARS AT MARKHAM



GARRETT LAHR
PROJECT MANAGER
10 YEARS' INDUSTRY EXPERIENCE
10 YEARS AT MARKHAM



CHRIS KMETTY, PE
PRECONSTRUCTION
MANAGER
19 YEARS' INDUSTRY EXPERIENCE
4 YEARS AT MARKHAM



TOM MARKHAM
SENIOR ESTIMATOR
39 YEARS' INDUSTRY EXPERIENCE
39 YEARS AT MARKHAM



KENNY WELLS
CONSTRUCTION
SUPERINTENDENT
36 YEARS' INDUSTRY EXPERIENCE
7 YEARS AT MARKHAM

MARKHAM CONTRACTING CO., INC.

continued



C QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

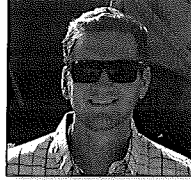
HEATHER MARKHAM VICE PRESIDENT

Heather has been with the company since 2003, overseeing and managing Markham's information systems, human resources, business development, project staff, and internal operations. She serves as Co-Chair for the Valley Partnership Community Project and is actively involved in AGC (American General Contractors Association), ACEC (American Council of Engineering Companies of Arizona), ASA (American Subcontractors Association), and AAED (Arizona Association for Economic Development). Heather believes in the importance of the community and was on the founding board of Hard Hats and High Heels which focuses on fundraising for organizations that promote improving the well being of those who are less fortunate.



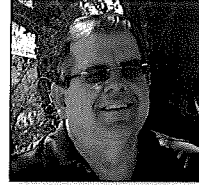
GARRETT LAHR PROJECT MANAGER

Garrett Lahr has diverse civil construction experience working in the field as an operator, in the office working with estimates and takeoffs, coordinating and managing subcontractors and construction schedules, and working as an on-site office project manager. His expertise in coordinating field operations is enhanced by his exceptional communication skills: Garrett addresses and resolves complex construction issues with an eye toward providing options for producing a consistently exceptional product.



TOM MARKHAM SENIOR ESTIMATOR

Tom Markham, Senior Estimator, has extensive field experience as well as estimating and project management expertise. He has worked with architects and engineers on a variety of civil construction projects throughout Arizona. He has collaborated with counties, cities, and municipalities in the development of complex schedules and project budgets. Tom is known for providing a seamless transition between the preconstruction and construction phases.



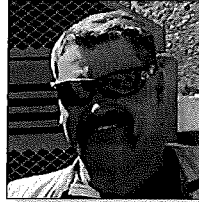
CHRIS KMETTY, PE PRECONSTRUCTION MANAGER

As a recognized industry expert, an educator in alternative delivery, and a registered engineer, Chris brings to your project his expertise in preconstruction services and his previous experience working with the Ak-Chin Community on Peters & Nall, Farrell Road, and additional recent community projects. Chris brings considerable experience to assist teams through the agency coordination, permitting, design, and construction phases of significant projects. He has led teams to many significant regional and national awards, including the Marvin M. Black and ADOT Partnering Awards, Globe Award for Environmental Construction, ACEC Grand Award of Excellence, and E-Week Outstanding Engineering Achievement. He consistently delivers projects that exceed client expectations.



KENNY WELLS CONSTRUCTION SUPERINTENDENT

Kenny is Markham's superintendent of all paving operations. He has vast experience in parking lot paving as well as roadway experience. His commitment to safety and quality driven production along with this knowledge of all aspects of equipment management, asphalt paving, excavation and grading techniques guarantees he will be a key contributor to the success of your project.



ROB PAXSON JOC PROJECT MANAGER

Rob has over 35 years of experience in construction management. As your Senior Project Manager, Rob will ensure that all available resources are assigned to your project and that it is properly staffed with qualified personnel. He has overseen all phases of construction on a wide variety of local and international projects. He is experienced in all aspects of alternative delivery, design-build, and JOC construction.

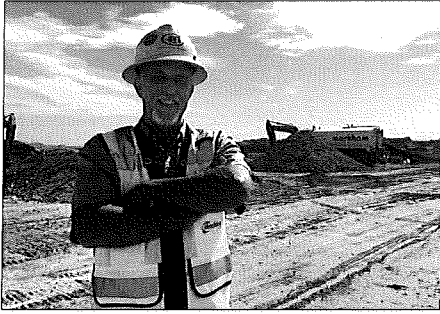


MARKHAM CONTRACTING CO., INC.



C QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

C2 DISCUSS KEY PERSONNEL AND THEIR PERSPECTIVE AND EXPERIENCE ON PARTNERING, QUALITY CONTROL, PROJECT SCHEDULING, CLAIMS, DISPUTE RESOLUTION, CHANGES IN THE SCOPE OF WORK, CONSTRUCTION SAFETY, VALUE ENGINEERING, BALANCING WORKLOADS, AND WAYS TO REDUCE COSTS TO THE OWNER.



ROB PAXSON, JOC MANAGER
35 Years' Industry Experience
7 Years with Markham

In his own words:

"**Partnering** brings all project members together to achieve an award-winning project. Within the partnering process, project goals and processes are set. This helps resolve potential future issues. An escalation ladder will be created with responsibilities for each member to address prior to advancing to the next level. • **Quality control** ensures that all work and

materials meet or exceed the design requirements. This process includes inspections, documentation, and testing. • **Project scheduling** is vital to a successful project. An effective project schedule will have enough detail to determine when work needs to start and to be completed, and what task is next. It is a vital element for procurement of long lead materials and equipment. • **Claims** should not happen! They are time-consuming and can affect relationships. • Utilizing the escalation ladder established in the partnering agreement, and with mutual respect and cooperation, **dispute resolution** can occur easily and quickly. • All **changes in scope** of work should be well documented and presented in a timely manor to the stakeholders. • **Construction safety** is a critical, fundamental element which is infused in all of our work, tasks, and actions. Markham is proud of its impressive safety record: as of this writing, we have over one million hours without a lost-time incident. • A key element to any project, **value engineering** recommendations are thoroughly vetted prior to presenting to the client. They can offer significant cost and schedule benefits. • **Balancing workloads** is crucial to the success of any project. Work that is planned out and properly scheduled properly enables us to simultaneously tackle many tasks. • Value engineering, accurate schedules, and a thorough review of documents prior to starting work can vet out possible design, access, and schedule issues - all of which can **reduce costs** and benefit the bottom line."



GARRETT LAHR, PROJECT MANAGER
10 Years' Industry Experience
10 Years with Markham

In his own words:

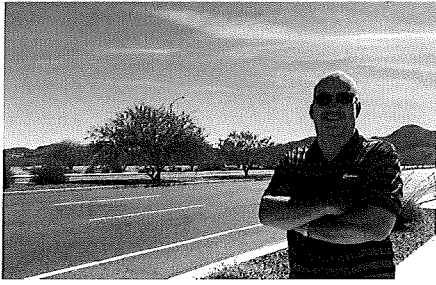
"**Partnering** enables us work together to achieve a common goal and with great results. • During the **quality control** process, we continually review our product and workmanship. • **Project scheduling** allows us to give our subs notice to meet their deadlines and thus predict critical path elements. **Dispute resolution** is our goal. If more information is needed, a field meeting is conducted so that all

issues are revealed and subsequently resolved. • Emails will be sent out for approval to confirm **changes in scope** to ensure mutual understanding and agreement. • All Markham foreman and project managers have passed the minimum 10-hour **OSHA** class to ensure **construction safety**. Our Safety and Environmental Director routinely reviews all projects. • We utilize **value engineering** to create scheduling and cost savings. • **Balancing workloads** ensures that our project schedule remains current and encourages our optimum performance. • In addition to the items mentioned above, we help **reduce costs** to the Owner by being highly communicative, pro-active, conducting thorough plan reviews prior to construction, and holding frequent pre-construction, tail board, and client meetings. We emphasize streamlining documents from the field to the office and vice versa."

MARKHAM CONTRACTING CO., INC.



C QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

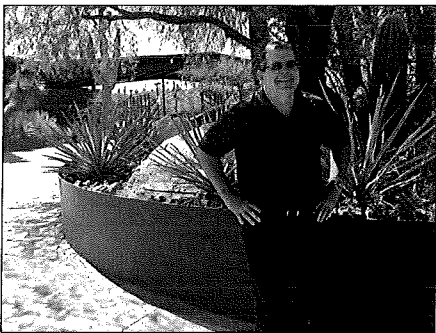


CHRIS KMETTY, PRECONSTRUCTION MANAGER
19 Years' Industry Experience
4 Years with Markham

In his own words:

"Partnering is an ongoing communication, whether formal or informal. It provides the best process to complete a project without conflict. • **Quality control** assures that our product meets and exceeds both the minimal specification requirements and the needs of the communities we are building in.

• **Project scheduling** is our promise to do our best to meet client schedule requirements. This is accomplished through regularly scheduled meetings and extensive communication with team members and inspectors with an eye toward anticipating issues and being prepared to resolve them. • We utilize our experience to mitigate **changes in scope** by working with our clients to manage potential changes through the use of project contingency and schedule. We provide a solutions-based approach to keep a project moving forward. • **Construction safety** is vital to everyone who works on and around our construction sites. We work to the highest standards to achieve clean, orderly jobsites that are also safe for the community and public that travel through and around our projects. • **Value engineering** and value analysis are used to achieve the best product at an economical return, including both initial cost and long-term infrastructure maintenance costs. • **Balancing workloads** starts with capabilities and management, then moves toward individuals. We assign the proper equipment, staff, and manpower to meet clients' needs. • Markham looks for value engineering solutions to **reduce costs**. We also utilize in-house staff to produce cost effective projects."

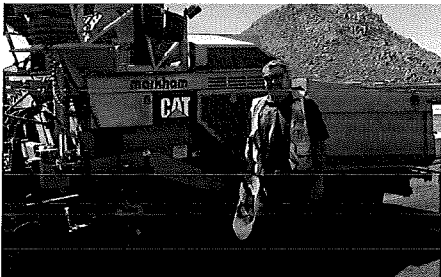


TOM MARKHAM, SENIOR ESTIMATOR
39 Years' Industry Experience
39 Years with Markham

In his own words:

"Partnering brings enhanced and open communications to a project, creating better understanding of the clients' needs. This often leads to a discussion of where **value engineering** could save the client money and/ or where end-use value may be added to the project. • Good communication helps avoid **changes in scope**, but when changes are necessary, it enhances our ability to efficiently deal with these changes. • Timely answers and frequent, open

open communication leads to a more efficient, **safer jobsite**. This helps to keep the general public and communities informed. **Safety and quality control** are the backbone of all MCCI projects, from estimating to final walk-through. From design to estimating project cost it is understood that no corners will be cut when it comes to the safety of all involved in the project."



KENNY WELLS, PAVING SUPERINTENDENT
36 Years' Industry Experience
7 Years with Markham

In his own words:

"Every successful project we tackle has its roots in solid **partnering**. • **Quality control** enables us to consistently achieve higher productivity and an exceptional product. • I personally oversee the creation and maintenance of **project schedules**. • We are accustomed to **changes in scope**, and approach each

situation professionally, with an eye toward our common goal of project excellence through adherence to budget and schedule. • We live for **construction safety** and are proud of our exceptional performance in this area. • We pride ourselves in being able to accommodate our many clients' needs by **balancing workloads**. We are able to do this because of our vast company resources. • All of our crew members are encouraged to offer suggestions that will **reduce costs** on our projects."

MARKHAM CONTRACTING CO., INC.

C QUALIFICATIONS & EXPERIENCE OF KEY PERSONNEL

C3 PROVIDE PROJECT INFORMATION FOR UP TO 5 KEY PERSONNEL EXPECTED TO BE ASSIGNED TO THIS JOC WHERE THE CONTRACTOR PROVIDED CONSTRUCTION SERVICES SIMILAR TO THOSE LISTED IN SECTION 2 – SCOPE OF WORK

The individuals listed below have worked on the projects which are described on pages 3-5 of this proposal.
In most cases they have worked side-by-side in the development of these projects.

	BELL	ALSDORF	SR 260	INA	OLD CAREFREE	INDIAN SCHOOL	AK-CHIN	FARRELL	SUNSHINE
ROB PAXSON JOC MANAGER	●	●	●	●		●	●	●	●
GARRET LAHR PROJECT MANAGER	●	●	●	●	●	●			●
CHRIS KMETTY PERMITTING	●	●	●	●	●		●	●	●
TOM MARKHAM SENIOR ESTIMATOR	●	●					●		●
KENNY WELLS CONSTRUCTION SUPERINTENDENT	●	●	●	●	●	●	●	●	●

The services listed below, listed in Section 2-Scope of Work, were provided on the projects which are described on pages 3-5 of this proposal.

SCOPE OF WORK REQUESTED	BELL	ALSDORF	SR 260	INA	OLD CAREFREE	INDIAN SCHOOL	AK-CHIN	FARRELL	SUNSHINE
SERVE AS JOC CONTRACTOR	■	■	■	■			■		■
COORDINATE WITH VARIOUS UTILITIES	■	■		■		■	■	■	■
OBTAIN PERMITS	■	■	■	■	■	■	■	■	■
SWPPP	■	■	■	■	■	■	■	■	■
SUBGRADE PREPARATION	■	■	■	■	■	■	■	■	■
PLACING ASPHALT PAVEMENTS	■	■	■	■	■	■	■	■	■
PAVEMENT MAINTENANCE AND REHABILITATION	■	■					■	■	■
POTHOLING UNDERGROUND UTILITIES/OBSTRUCTIONS	■	■		■		■	■	■	■
PLACE/RELOCATE CONDUIT AND BOXES	■					■		■	■
CONSTRUCT ADA ACCESSIBLE FEATURE	■	■		■		■		■	■
DRAINAGE FEATURES	■	■	■		■	■	■	■	■
STRIPING AND SIGNAGE	■	■	■	■	■	■	■	■	■
EARTHWORK: SITE ROUGH AND FINISH GRADING	■	■	■	■	■	■	■	■	■
BIKEWAYS; MULTI-USE PATHS		■	■		■			■	■
MINOR WET/DRY UTILITY INSTALLATION/RELOCATION	■	■	■		■	■	■		■
MINOR LANDSCAPING, IRRIGATION SYSTEMS	■	■	■		■			■	■

MARKHAM CONTRACTING CO., INC.



D APPENDIX

- D1 SUBCONTRACTOR SELECTION PLAN
- D2 ARIZONA REGISTRAR OF CONTRACTORS
LICENSE IDENTIFICATION CARDS
- D3 STATEMENT OF BONDING CAPACITY
- ~~D4 SAFETY AND HEALTH PLAN~~ *gt*
- D5 STATEMENT REGARDING TERMINATED
CONTRACTS
- D6 AMENDMENT DATED OCTOBER 25, 2016
- D7 AMENDMENT DATED NOVEMBER 1, 2016

MARKHAM CONTRACTING CO., INC.



APPENDIX D1 SUBCONTRACTOR SELECTION PLAN

DISCUSS THE KEY COMPONENTS AND ADVANTAGES OF YOUR COMPANY'S SELECTION PROCESS FOR SUBCONTRACTORS. DEMONSTRATE YOUR UNDERSTANDING OF THE CITY'S REQUIREMENT THAT SUBCONTRACTOR SELECTION MUST BE BASED ON QUALIFICATIONS ALONE OR A COMBINATION OF QUALIFICATIONS AND PRICE, NOT ON PRICE ALONE. PROVIDE A DETAILED PROPOSED SUBCONTRACTOR SELECTION PLAN ATTACHED AS AN APPENDIX.

Markham is very demanding in the evaluation and selection of subcontractors because we recognize that ultimately subcontractors represent us and the solid reputation we have built in nearly 40 years. They also reflect on the public's perception of the project and the agency owner.

We are committed to performing the highest quality work, and we require that all subcontractors meet our high standards. The following describes Markham's approach to the qualifications-based selection of subcontractors and follows the guidelines in A.R.S. §34-603 (C)(7):

DETERMINING OUR SUBCONTRACTING NEEDS

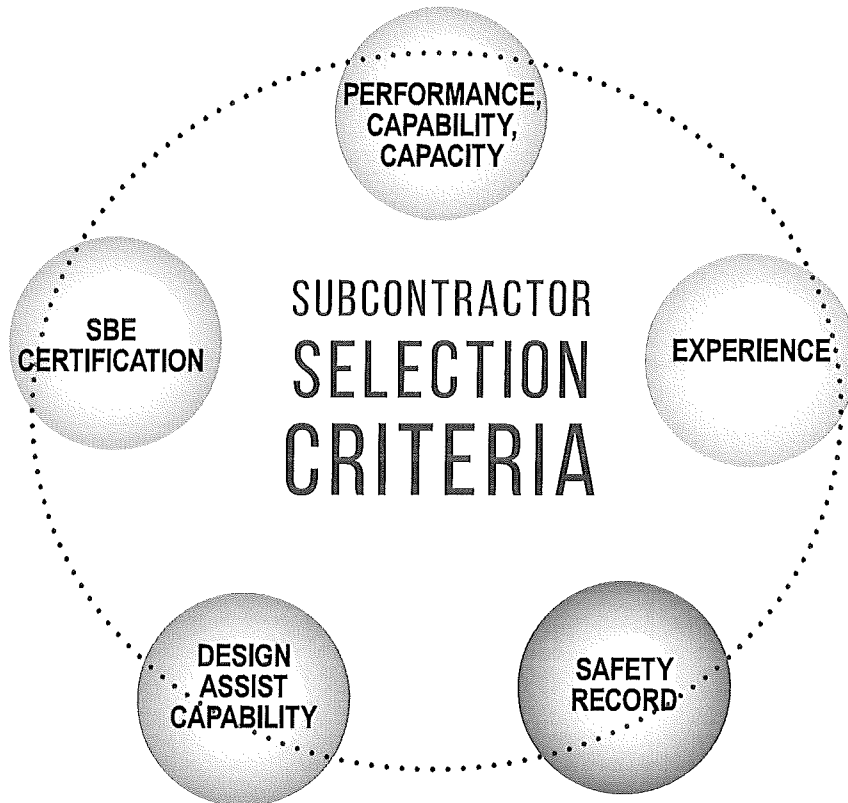
We identify and qualify subcontractors as the project is developed and needs are established. Based on the project schedule and risk factors, subcontractors will be selected and

brought in at two distinct points in the process.

The decision to bring a contractor in early is based upon risk. If an item or type of work is seen to have high potential for risk to project success and a highly-qualified specialty contractor can be identified that can assist in the risk mitigation through design assistance and coordination, we will suggest that they be added to the team based upon qualifications.

Markham will discuss with the City any needs for qualification-based subcontractor selection prior to including these costs in a preliminary GMP submittal. Other subcontractors will be brought in once the development of the packages is complete and will be selected based on a combination of qualifications and price.

Markham anticipates self-performing 80-90% of construction activities, but will also work to achieve SBE utilization through our extensive list of SBE subcontractors.



APPENDIX D1 SUBCONTRACTOR SELECTION PLAN

SELECTING QUALITY SUBCONTRACTORS

The City of Peoria will have significant involvement in the prequalification process. Once all the work in each task order is understood, Markham will recommend a pool of prequalified subcontractors to complement our team and will submit the list to the City for review, drawing from our in-house list of over 1,100 subcontractors throughout Arizona. The Markham team will meet with the City to discuss and develop consensus on the potential subcontractors to complement our team. Markham will then prepare individual packages for bidding and will send to the prequalified subcontractors that have been agreed upon by the City and Markham.

SUBCONTRACTOR SELECTION CRITERIA

The majority of subcontractors will be selected based upon qualifications and price. Each subcontractor will be prequalified based upon experience and performance, as well as the availability of resources to complete the work package. In some instances schedule can be used as a qualification criterium. Once bids are received all bids will be clarified. Pricing is then evaluated. Weight is applied to pricing based upon the risk evaluation of the work package, schedule, workload, and availability of resources from subcontractors. The final selection of subcontractors will be based upon qualifications and price.

The following are the five most important criteria Markham uses to select subcontractors:

1 PERFORMANCE, CAPABILITY, AND THE CAPACITY TO PERFORM THE WORK We place the highest emphasis on the criteria that are most important to both Markham and the City: those that affect the successful, on-time completion of high-quality work that is within the budget for each task.

2 EXPERIENCE WITH BOTH THE CITY OF PEORIA AND MARKHAM We will seek out subs that have a successful track record with us or the City on other projects to eliminate uncertainty as to how they will perform.

3 SAFETY RECORD We are extremely proud of our safety record. We partner with subcontractors who are committed to the overall safety of a project to ensure the safety of all crews and the public.

4 DESIGN ASSIST CAPABILITY We often identify specialty contractors who complement our expertise for collaboration. This enhances and reinforces overall project goals.

5 SBE CERTIFICATION If there is an established SBE goal on any task we will endeavor to meet or exceed the goal by identifying qualified SBE subs.

HOW MARKHAM MEETS APPLICABLE SBE GOALS

The following describes Markham's approach and commitment to achieving or exceeding an applicable SBE goal, while retaining a high level of quality.

Markham views SBE goals as minimums, and not a place to stop. We involve SBEs in multiple areas of a project. This helps to meet SBE goals throughout the project, not just at the beginning or end. This approach is helpful if scope changes develop and we can meet the goals as project scope and budgets also adapt.

We also mentor SBEs in many areas of business development, quality, and safety. We have used this approach to develop long-lasting relationships with SBEs that are utilized on many of our projects.

We will work from the City of Peoria SBE list to identify potential SBE subcontractors for this project, and are very familiar with working with SBE and local subcontractors.

Markham has worked hard to develop a strong relationship with a number of SBE's who we often collaborate with. If there is an established SBE goal, we will meet or exceed the goal by analyzing the subcontractors' capacities and abilities to exceed or excel on the work assigned to them.

WHEN PRICE IS A FACTOR IN SELECTION, AND HOW MUCH WEIGHT IS GIVEN TO PRICE

Once all of our subcontractors have been prequalified through our subcontractor selection process, price is evaluated to determine the best value subcontractor. All subcontractors are selected based upon qualifications and price. No subcontractors are selected based upon price alone.

FORMS USED IN OUR SELECTION PROCESS.

Markham's subcontractor evaluation form is included on the following page.

MARKHAM CONTRACTING CO., INC.



APPENDIX D1 SUBCONTRACTOR SELECTION PLAN

MARKHAM CONTRACTING CO., INC.

Markham Contracting Co., Inc.



22820 N. 19th Avenue
 Phoenix, Arizona 85027-1312
 (623) 869-9100 Fax: (623) 869-9400
 AZ License # ROC072454 A, ROC046809 B-04

SUBCONTRACTOR PREQUALIFICATION

Markham Contracting is in the process of updating our Select Bidders list for use on our projects. Please fill out the following and return to us as soon as possible in order for us to include you on our list.

COMPANY NAME _____
 CONTACT _____
 ADDRESS _____
 _____ CITY _____ STATE _____
 PHONE _____ FAX _____ E-MAIL _____
 SCOPE OF WORK _____

- Years your organization has been in business? _____ How many years under this name? _____
- Is your organization a _____ Partnership _____ Individual _____ Corporation in the State of _____
- Contractors License No.: _____ • AZ Sales Tax No.: _____
- Federal Employer ID Number or Social Security Number: _____
- Is your organization an _____ SBE _____ MBE _____ DBE License No. _____
- Has your firm or any other organization with which your owners, officers or principals were involved during the past 5 years, ever failed to complete any work awarded or been terminated for cause? Yes No (If Yes, explain)

- Has your firm filed or been the subject of any lawsuits or requested arbitration or mediation with regards to construction contracts within the last three Years? Yes No (If Yes, explain)

Worker's Compensation Carrier	Policy No.	Expiration	Limits \$
Liability Carrier	Policy No.	Expiration	Limits \$
Bonding Company	Bonding Capacity		
Provide annual revenue volume over the past three years:	Year _____ \$	Year _____ \$	Year _____ \$



APPENDIX D2 ARIZONA REGISTRAR OF CONTRACTORS LICENSE IDENTIFICATION CARDS

MARKHAM CONTRACTING CO., INC.



STATE OF ARIZONA
 Office of the Registrar of Contractors

Markham Contracting Co Inc DBA: Markham
 Formerly known as:
 Markham Contracting Co Inc

Is the holder of a Class B-1 license. Issued on 04/20/1999, which permits the Licensee to pursue the business of GENERAL COMMERCIAL CONTRACTOR in the State of Arizona under License No.: ROC144801

This further certifies that the request of business name is hereby granted and duly recorded.

Given under my hand and the seal of the Registrar of Contractors, Phoenix, Arizona, on 11/23/2015.






LICENSE EFFECTIVE THROUGH: 11/30/2016
 STATE OF ARIZONA

Registrar of Contractors CERTIFIES THAT
 Markham Contracting Co Inc
 DBA: Markham

CONTRACTORS LICENSE NO. 046809 CLASS B-4
 GENERAL RESIDENTIAL ENGINEERING CONTRACTOR

THIS CARD MUST BE PRESENTED UPON DEMAND


JEFF FLEETHAM, DIRECTOR

LICENSE EFFECTIVE THROUGH: 04/30/2017
 STATE OF ARIZONA

Registrar of Contractors CERTIFIES THAT
 Markham Contracting Co Inc
 DBA: Markham

CONTRACTORS LICENSE NO. 144801 CLASS B-1
 GENERAL COMMERCIAL CONTRACTOR

THIS CARD MUST BE PRESENTED UPON DEMAND



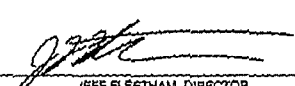


JEFF FLEETHAM, DIRECTOR

LICENSE EFFECTIVE THROUGH: 08/31/2017
 STATE OF ARIZONA

Registrar of Contractors CERTIFIES THAT
 Markham Contracting Co Inc
 DBA: Markham

CONTRACTORS LICENSE NO. 072454 CLASS A
 COMMERCIAL GENERAL ENGINEERING

THIS CARD MUST BE PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR



APPENDIX D3 STATEMENT OF BONDING CAPACITY

MINARD - AMES
INSURANCE SERVICES LLC

INSURICA INSURANCE
MANAGEMENT
NETWORK

September 14, 2016

RE: Markham Contracting Co., Inc.

To Whom It May Concern:

We submit this letter in recommendation of our valued client, Markham Contracting Co., Inc. We have provided bonding services for them since 1987. They come very highly recommended by this office and we are pleased to share with you our most favorable experience and regard for our client. In our opinion, Markham Contracting is most capably staffed, properly financed and possess very capable and successful management. These characteristics, along with the exceptional track record they have built, put the company in the enviable position of having a bonding capacity of \$75,000,000 for a single project and an aggregate bonding capacity of approximately \$100,000,000, although it should be noted that this is not considered a maximum capacity.

Minard-Ames Insurance Services LLC has arranged a surety program for Markham Contracting Co., Inc. with Travelers Casualty and Surety Company of America. They are a Treasury Listed, "A++ XV" A.M. Best rated surety company and have been able to meet the surety needs of Markham Contracting. Travelers has indicated a willingness to continue supporting their future requests, provided specific underwriting requirements are met at the time a bond is requested.

Any arrangement for bonds on behalf of Markham Contracting is a matter between the contractor, surety and Minard-Ames Insurance Services. Bonds issued are always based on a satisfactory review of all contract documents, bond forms, verification of financing, and other current relevant underwriting information. We assume no liability to third parties or to you if for any reason we do not execute said bond or bonds.

As of June 30, 2016, Markham's current backlog was approximately \$15,500,000.

We hope this provides the information you need. If you have any questions, please do not hesitate to contact us. Thank you.

Sincerely,



Lori L. Dawson-Brown
Assistant Underwriting Executive

East Gateway Center
4646 East Van Buren
Street, #200
Phoenix, Arizona
85008
P : 602.273.1625
F : 602.273.0212
W : Insurica.com

MARKHAM CONTRACTING CO., INC.



APPENDIX D5 STATEMENT RE TERMINATED CONTRACTS

PROVIDE STATEMENT IDENTIFYING ANY CONTRACT OR SUBCONTRACT HELD BY THE CONTRACTOR OR OFFICERS OF THE COMPANY, WHICH AS BEEN TERMINATED WITHIN THE LAST FIVE (5) YEARS FOR CAUSE. IDENTIFY ANY CLAIMS ARISING FROM A CONTRACT OWNER, WHICH RESULTED IN LITIGATION OR ARBITRATION WITHIN THE LAST FIVE (5) YEARS. BRIEFLY DESCRIBE THE CIRCUMSTANCES AND THE OUTCOMES.


None

MARKHAM CONTRACTING CO., INC.



APPENDIX D6 AMENDMENT OF OCTOBER 25, 2016

MARKHAM CONTRACTING CO., INC.

	SOLICITATION AMENDMENT	Materials Management Procurement 9875 N. 85 th Ave., 2 nd Fl. Peoria, Arizona 85345-6560 Telephone: (623) 773-7115 Fax: (623) 773-7118
	Solicitation No: P17-0020 Description: JOC for Citywide Civil/Site Work Amendment No: One (1) Solicitation Due Date: November 8, 2016 Solicitation Due Time: 5:00 p.m.	Buyer: Lisa Houg

A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.

The SOQ is being amended to revise and replace Section 4.1, Submittal Information and to delete Section 3.1, SOQ Format, Section B.2. as indicated below:

4.1 Submittal Information

~~The company's responses to the SOQ criteria in Section 3 – Statement of Qualifications in order A-C and titled as listed. The SOQ submittal pages shall be 8 ½" X 11 and are limited to no more than ten (10) pages. Adherence to the maximum page criterion is critical and each page with criteria information will be counted. Pages that have project photos, charts, and graphs will count toward the maximum number of pages.~~

4.1 Submittal Information

The SOQ submittal pages shall be 8 ½" X 11 and are limited to no more than ten (10) pages and must include the following:

- A one page cover letter prepared on the company's letterhead and signed by an individual authorized to sign on behalf of the company.
- The company's responses to the SOQ criteria in Section 3 – Statement of Qualifications in order A-C and titled as listed.
- Submit one (1) original and five (5) copies.
- Font size should not be smaller than 10 point Times New Roman or Arial and page margins shall be ½" minimum.

Adherence to the maximum page criterion is critical and each page with criteria information will be counted. Pages that have project photos, charts, and graphs will count toward the maximum number of pages.

3.1 SOQ Format, B. Local Experience & Qualifications of the Contractor

~~2. Describe the Contractor's management and organizational abilities.~~

All other provisions of this Solicitation shall remain in their entirety.

Vendor hereby acknowledges receipt and agreement with the amendment.

Heather Markham November 8, 2016
 Signature Date

Heather Markham, Vice President

Typed Name and Title

Markham Contracting Co., Inc.

Company Name

22820 North 19th Avenue

Address

Phoenix Arizona 85027

City

State

Zip

The above referenced Solicitation Amendment is hereby Executed

October 25, 2016



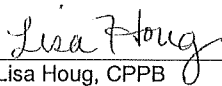
at Peoria, Arizona

Lisa Houg
 Lisa Houg, CPPB
 Contract Officer



APPENDIX D7 AMENDMENT OF NOVEMBER 1, 2016

MARKHAM CONTRACTING CO., INC.

	SOLICITATION AMENDMENT		Materials Management Procurement 9875 N. 85 th Ave., 2 nd Fl. Peoria, Arizona 85345-6560 Telephone: (623) 773-7115 Fax: (623) 773-7118
	Solicitation No: P17-0020 Description: JOC for Citywide Civil/Site Work Amendment No: Two (2) Solicitation Due Date: November 8, 2016 Solicitation Due Time: 5:00 p.m.	Buyer: Lisa Houg	
<p>A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.</p> <p>The SOQ is being amended as indicated below:</p> <p>4.2 Appendix</p> <p>Appendix shall contain the following and will not count against the total page count:</p> <ul style="list-style-type: none"> • Subcontractor Selection Plan. • Scanned copies of the Arizona Registrar of Contractors License Identification Card(s). Multiple ID cards may be placed on the same page. • Statement of bonding capacity from an A- or better Surety Company, including the maximum amount for a single project and aggregate project amount. • A copy of a recent project Safety and Health Plan. <u>The Safety and Health Plan will not be required as part of the submittal, but may be required of the shortlisted contractors.</u> • Provide statement identifying any contract or subcontract held by the Contractor or officers of the company, which has been terminated within the last five (5) years for cause. • Identify any claims arising from a contract owner, which resulted in litigation or arbitration within the last five (5) years. Briefly describe the circumstances and the outcomes. <p>In addition, the one (1) page cover letter prepared on the company's letterhead and signed by an individual authorized to sign on behalf of the company will <u>NOT</u> count toward the maximum number of pages.</p> <p><i>All other provisions of this Solicitation shall remain in their entirety.</i></p>			
Vendor hereby acknowledges receipt and agreement with the amendment.  November 8, 2016 Signature Date Heather Markham, Vice President Typed Name and Title Markham Contracting Co., Inc. Company Name 22820 North 19th Avenue Address Phoenix Arizona 85027 City State Zip		The above referenced Solicitation Amendment is hereby Executed November 1, 2016 at Peoria, Arizona  Lisa Houg, CPPB Contract Officer	
Copyright 2003 City of Peoria, Arizona COP 207 (02/01/08)HFK			



ATTACHMENT C

**JOC Cost Proposal Form
(Pricing Matrix)**

(See Attached)

**City of Peoria
JOC Pricing Matrix**

P17-0020, JOC for Citywide Civil / Site Work

January 9, 2017

Contractor: Markham Contracting Co., Inc.

Indirect Cost of the Work	\$1.00 to \$50,000	\$50,001.00 to \$200,000	\$200,001 to \$500,000	\$500,001 to \$1,000,000	\$1,000,001 to \$2,000,000	over \$2,000,000
Job Order Contractor's Fee (<i>G&A and Profit</i>)	13.50%	13.50%	11.50%	11.00%	10.00%	10.00%
Payment & Performance Bonds	1.500%	1.500%	1.500%	1.500%	1.500%	1.500%
Insurance	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
AZ/County/City Taxes (65% of .081)	5.265%	5.265%	5.265%	5.265%	5.265%	5.265%
Total Indirect Cost %	21.27%	21.27%	19.27%	18.77%	17.77%	17.77%
Labor Burden Multiplier (Percentage) (<i>on employee's base hourly wage rate</i>)	35	35	35	35	35	35

ATTACHMENT D

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

(See Attached)

Markham Contracting Contact List for Peoria Citywide JOC:

Mailing Address/Main Phone Number:

Markham Contracting Co., Inc.
22820 North 19th Ave
Phoenix AZ 85027
(623) 869-9100

Garrett Lahr, Project Manager: Field directive change Signing Authority
Email: glahr@markhamcontracting.com
Cell Phone: (623) 695-2416

Tom Markham, Estimator: Task Order Signing Authority
Email: tmarkham@markhamcontracting.com
Cell Phone: (623) 694-9804

Rob Paxson, Sr Project Manager: Task Order Signing Authority
Email: rpaxson@markhamcontracting.com
Cell Phone: (623) 694-9840

Kenny Wells, Paving Superintendent
Email: kwells@markhamcontracting.com
Cell Phone: (623) 695-8385

Chris Kmetty, Construction Engineering Manager
Email: ckmetty@markhamcontracting.com
Cell Phone: (623) 866-8101

Keith Blakslee, Operations Manager
Email: kblakslee@markhamcontracting.com
Cell Phone: (623) 694-9820

Mike Markham Jr, Vice President COO: Full signing authority
Email: mikemarkham@markhamcontracting.com
Cell Phone: (623) 694-5503

Heather Markham, Vice President: Full signing authority
Email: hmarkham@markhamcontracting.com
Cell Phone: (623) 695-2154

Additional Full Signing Authority: Mike Markham Sr, Jennifer Markham

EXHIBIT B
EAST McDONALD DRIVE CULVERT EXTENSION
FINAL PROPOSAL

Attached: Quote



Markham Contracting Co., Inc.

22820 N. 19th Avenue
Phoenix, Arizona 85027-1312
(623) 869-9100 Fax: (623) 869-9400
AZ License #'s ROC072454 A; ROC046809 B-04

March 30, 2018

Jeremy T. Knapp, AICP
Engineering Services Analyst
Town of Paradise Valley
6401 E Lincoln Drive
Paradise Valley, Arizona 85253-4399

Attn: Jermey T Knapp
RE: East McDonald Drive Box Culvert Extension
Project No 2018-18

via e-mail: jknapp@paradisevalleyaz.gov

Dear Sir,

Markham Contracting Co., Inc. (MCCI) is pleased to submit a proposal on the above referenced project. Please find attached our proposed inclusions with related notes, exclusions, and general notes, plus our Exhibit A.

We appreciate the opportunity to participate in your bid process. If you have any questions or wish additional information, please contact me.

Sincerely,
Markham Contracting Co., Inc.

Tom Markham
Estimator

Town of Paradise Valley Department of Public Works
 E McDonald Drive Box Culvert Extension
 Project No. 2018-18



100 % Plans Final Proposal

Item Description	Unit	Qty	Unit Price	Total Price
Removal / Relocation Notes				
Clearing of Trash & Misc.	EA	1	\$ 7,281.31	\$ 7,281.31
Remove Existing Pavement	SY	70	\$ 12.91	\$ 903.70
Remove Cement Concrete Curb & Gutter	LF	10	\$ 18.70	\$ 187.00
Remove Concrete Sidewalk, Spillway, & Slab	SF	1605	\$ 1.65	\$ 2,648.25
Remove & Salvage Ex Handrail	LF	48	\$ 5.21	\$ 250.08
Remove Structural Concrete	LF	1	\$ 10,640.00	\$ 10,640.00
Remove & Salvage Ex Guardrail	LF	263	\$ 8.84	\$ 2,324.92
New Construction Notes				
New Pavement, Match Ex Structural Section	SY	66	\$ 118.15	\$ 7,797.90
6" Wide Concrete Sidewalk per COP 4" Thick	SF	1320	\$ 5.09	\$ 6,718.80
Concrete Curb & Gutter	LF	131	\$ 21.20	\$ 2,777.20
Box Culvert Extension Inc Wing Wall	LF	3	\$ 13,407.66	\$ 40,222.98
Parapet Wall	LF	37	\$ 65.73	\$ 2,432.01
Guardrail No End Section	LF	173	\$ 31.02	\$ 5,366.46
RIPRAP	CY	23	\$ 169.41	\$ 3,896.43
Final Adjustment Sewer Man Hole	EA	1	\$ 850.00	\$ 850.00
Grade Channel Access Ramp	EA	1	\$ 1,450.00	\$ 1,450.00
Catch Basin	EA	1	\$ 5,600.00	\$ 5,600.00
18" Pipe	EA	1	\$ 1,650.00	\$ 1,650.00
Temp Cover Existing Sewer Place and Remove	EA	1	\$ 1,500.00	\$ 1,500.00
General Cleanup Including Granite	EA	1	\$ 2,528.00	\$ 2,528.00
MOB and Temp Facilities	EA	1	\$ 11,105.00	\$ 11,105.00
SWPP & Dust Control (Dust, SWPP, Street Sweeper)	EA	1	\$ 12,571.00	\$ 12,571.00
Traffic Control	EA	1	\$ 8,724.30	\$ 8,724.30
Supervisor & Management	EA	1	\$ 12,052.00	\$ 12,052.00

SEE NOTES PAGE 2

<u>New Construction Total</u>	\$ 151,477.34
Insurance 1%	\$ 1,514.77
b Order Contractor Fee 13.5%	\$ 20,449.44
<u>Total</u>	\$ 173,441.55
Sales Tax	\$ 9,920.86
<u>Grand Total</u>	\$ 183,362.41

Signature

Tom Markham

Town of Paradise Valley Department of Public Works
E McDonald Drive Box Culvert Extension
Project No. 2018-18

NOTES:

100 % Plans Final Proposal

Includes Dust Permit and Signage

Town Project Sign

Traffic Control (Water Filled Barriers)

1 Message Board Only

Sidewalk and Parapet Wall to Be San Diego Buff

Price Based on full 24 Hours Closure of Westbound Slow Traffic Lane for Duration of Project

Sidewalk North of McDonald to be closed to Pedestrian Traffic for Duration of Project

Left Turn Lane to be used as additional Westbound Traffic Lane

EXHIBIT C
SPECIFIC REQUIREMENTS/OPTIONS OF TOWN

Notices: All notices required under the Contract shall be sent to:

Town Manager
Town of Paradise Valley
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253

With mandatory copy to:

Town Attorney
Town of Paradise Valley
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253

Immigration Law Compliance Warranty: As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program. If Contractor uses any subcontractors in performance of the Work, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. The Town of Paradise Valley (the “Town”) at its option may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). The Town retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

Emergency Contact: The Town is an emergency response organization. Contractor services or supplies may be required in case of an emergency involving a sudden, immediate threat of danger to the public health, welfare or property in the Town (“local emergency”) or in the case where the Mayor of the Town of Paradise Valley, the mayor or governing body of another municipality in Maricopa County, the Maricopa County Board of Supervisors, the State, or the President of the U.S. has declared an emergency (“State of Emergency”). In the event of a local emergency or State of Emergency, the Town may require Contractor to provide services or supplies as rapidly as possible and to such locations as directed by the Town when necessary to

protect the public health and welfare and/or property. Contractor shall not be required to respond to the extent response is not feasible due to Acts of God or other factors beyond its control. Contractor shall provide the designated the Town Emergency Management Coordinator at (480) 348-3631 and the designated the Town representative with a contact point (name, cell phone number, e-mail and facsimile number) who can be reached on short notice so that effective response can be initiated.

Equal Treatment of Workers: Contractor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of performance under the Contract. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration (“OSHA”) and the Fair Labor Standards Act (“FLSA”). Contractor shall protect and indemnify the Town and its representatives against any claim or liability arising from or based on the violation of such, whether by Contractor or its employees.