



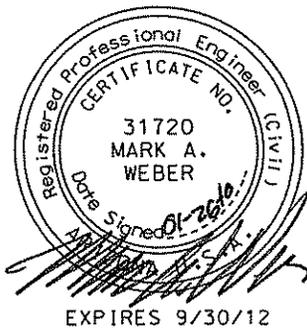
**CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION**

CONTRACT DOCUMENTS

FOR

UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS

**PROJECT NO. 6001921
ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C**



CITY COUNCIL MEMBERS

Mayor – Hugh Hallman

Mark Mitchell
Corey Woods
Shana Ellis

P. Ben Arredondo
Onnie Shekerjian
Joel Navarro

City Manager – Charles W. Meyer
City Engineer – Andy Goh, P.E.

2009

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

January 6, 2010

UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS

PROJECT NO. 6001921
ADOT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C

ADDENDUM NO. 2 TO THE CONTRACT DOCUMENTS:

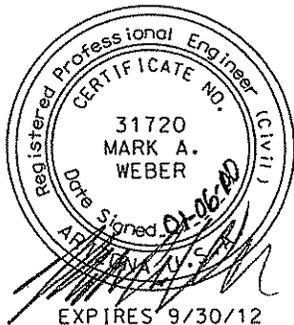
The original contract documents are modified or interpreted as stated herein. Receipt of this Addendum No. **2** shall be acknowledged by inserting its number and date in the space provided on the Bid Form. Failure to acknowledge may subject bidder to disqualification.

The following revisions to the plans and specifications shall become part of the Contract Documents for the above project.

This Addendum No. 2 consists of **2** pages.

CHECK SHEET

Replace Check Sheet with the revised Check Sheet page CS-1.




Andy Goh, P.E.
Deputy PW Manager/City Engineer

8.3.
CHECK SHEET

This check sheet contains a listing of items to be included in the sealed bid by the Contractor:

	Included	
8.4. Competitive Sealed Bid	B1 to B-4	<input type="checkbox"/>
8.5. Bidders Project References	PR-1	<input type="checkbox"/>
8.6. List of Subcontractors	SB-1	<input type="checkbox"/> Separate Envelope
8.7. Competitive Sealed Bid Certification Form	CF-1	<input type="checkbox"/>
8.8. Certification by the Contractor Authorizing Employees To Sign Binding Agreements.....	BA-1	<input type="checkbox"/>
8.13. Certification with Regard to the Performance of Previous Contracts or Subcontracts Subject to the Equal Opportunity Clause and the Filing of Required Reports	CP-1	<input type="checkbox"/>
8.14. Affidavit by Contractor Certifying No Collusion in Bidding for Contract	NC-1	<input type="checkbox"/>
8.15. Affidavit Demonstrating Lawful Presence in the United States...	ALP-1	<input type="checkbox"/> Separate Envelope
8.16. Disadvantaged Business Enterprise Assurances Affidavit	DBE-4	<input type="checkbox"/>
8.17. Disadvantaged Business Enterprise Intended Participation Summary Affidavit.....	DBE-5	<input type="checkbox"/>
Bid Bond (as per Instruction to Bidders, 4.4 Bid Security)	28	<input type="checkbox"/>
Safety Information (as per Instruction to Bidders, 4.7 Bidding Phase Requirements).....	28	<input type="checkbox"/> Separate Envelope

**CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING**

January 6, 2010

UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS

**PROJECT NO. 6001921
ADOT NO.CM-TMP-0(028)A
ADOT TRACS NO.0000 MA TMP SS612 01C**

ADDENDUM NO. 1 TO THE CONTRACT DOCUMENTS:

The original contract documents are modified or interpreted as stated herein. Receipt of this Addendum No. 1 shall be acknowledged by inserting its number and date in the space provided on the Bid Form. Failure to acknowledge may subject bidder to disqualification.

The following revisions to the plans and specifications shall become part of the Contract Documents for the above project.

This Addendum No. 1 consists of 7 pages.

TABLE OF CONTENTS

Replace page 4 with the Revised page 4.

3.9. ENVIRONMENTAL REQUIREMENTS

Add the following section:

3.9.4. Contractor Responsibilities

- a. The Contractor shall develop a traffic control plan in accordance with City of Tempe Standards. Traffic control will be in accordance with the most current *Manual on Uniform Traffic Control Devices for Streets and Highways*, published by the US Department of Transportation, Federal Highway Administration, including any revisions or additions, and/or associated provisions in the project plans, as determined by the City of Tempe during the certification acceptance or self-bid and administer process.
- b. To prevent the introduction of invasive species, all earth-moving and hauling equipment will be washed at the contractor's storage facility prior to entering the construction site.
- c. To prevent invasive species seeds from leaving the site, the contractor shall inspect all construction equipment and remove all attached plant/vegetation debris prior to leaving the construction site.
- d. All disturbed soils that will not be landscaped or otherwise permanently stabilized by construction will be seeded using species native to the project vicinity.
- e. If suspected hazardous materials are encountered during construction, work shall cease at that location and the Engineer will be contacted to arrange for proper assessment, treatment, or disposal of those materials.

- f. If previously unidentified cultural resources are encountered during activity related to the construction of the project, the Contractor shall stop work immediately at that location and shall take all reasonable steps to secure the preservation of those resources. The Engineer will immediately make arrangements for the proper treatment of those resources.

4.7. BIDDING PHASE REQUIREMENTS

Add the following paragraph to section 4.7., page 28:

The individual person(s) who respond to this Invitation for Bids by signing on page B-4, shall also sign a sworn affidavit (Exhibit 8.15.) and present one of the documents listed on the affidavit to verify lawful presence in the U.S., pursuant to A.R.S. §§1-501, 502. Failure to sign said affidavit and/or present one of the listed documents as required by law **shall be considered nonresponsive** and shall result in rejection of the bid.

CHECK SHEET

Replace Check Sheet with the revised Check Sheet page CS-1.

COMPETITIVE SEALED BID

Replace page B-3 with the revised page B-3. Total Cost of Allowances is added to Bid Items 32 and 33.

8. EXHIBITS, PAGE 67

Replace EXHIBITS, page 67 with the revised page 67.

EXHIBIT 8.15.

Replace Exhibit 8.15., Affidavit By Contractor Certifying that there was No Collusion in Bidding of Contract with revised page ALP-1, Affidavit Demonstrating Lawful Presence in the United States.

BIDDER CLARIFICATION RESPONSE

Following are answers to questions raised at the Pre-Bid meeting.

Question: Will temporary ramp closures at signalized intersections and temporary sidewalk closures be allowed?

Answer: Yes, with the following condition. If Americans with Disabilities Act (ADA) compliant access currently exists, it will need to be maintained. This also applies to Bus stops and temporary relocations of Bus Stops. Only one corner of a signalized intersection may be closed at a time.

Question: Are we required to complete DBE forms 8.16. and 8.17.?

Answer: Completion of DBE forms 8.16. and 8.17. is not required, unless bidder intends to utilize DBE participation to complete this project.




Andy Goh, P.E.
Deputy PW Manager/City Engineer

6.20.	NOTICES TO CONTRACTOR.....	36
7.	FEDERAL PROVISIONS.....	37
8.	EXHIBITS.....	67
8.1.	WAGE DETERMINATION.....	WD-1
8.2.	CONTRACTOR'S MONTHLY STATEMENT OF DBE UTILITZATION.....	DBE-1
8.3.	CHECK SHEET.....	CS-1
8.4.	COMPETITIVE SEALED BID.....	B-1
8.5.	BIDDERS PROJECT REFERENCES.....	PR-1
8.6.	LIST OF SUBCONTRACTORS.....	SB-1
8.7.	CERTIFICATION FORM.....	CF-1
8.8.	CERTIFICATION BY THE CONTRACTOR AUTHORIZING EMPLOYEES TO SIGN BINDING AGREEMENT.....	BA-1
8.9.	STATUTORY PERFORMANCE BOND PURSUANT TO A.R.S. §34-222.....	PB-1
8.10.	STATUTORY PAYMENT BOND PURSUANT TO A.R.S. §34-222.....	PB-3
8.11.	CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS.....	AFF-1
8.12.	PROMPT PAYMENT REQUIREMENTS.....	PPR-1
8.13.	CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS.....	CP-1
8.14.	AFFIDAVIT BY THE CONTRACTOR CERTIFYING NO COLLUSION IN BIDDING.....	NC-1
8.15.	AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES.....	ALP-1
8.16.	DISADVANTAGED BUSINESS ENTERPRISES ASSURANCES AFFIDAVIT.....	DBE-4
8.17.	DISADVANTAGED BUSINESS ENTERPRISES INTENDED PARTICIPATION SUMMARY AFFIDAVIT.....	DBE-5
8.18.	CONFIRMATION OF PARTICIPATION BY DBE.....	DBE-6
	TECHNICAL SPECIFICATIONS.....	TS-1

8.3.
CHECK SHEET

This check sheet contains a listing of items to be included in the sealed bid by the Contractor:

		Included	
8.4.	Competitive Sealed BidB1 to B-4	<input type="checkbox"/>	
8.5.	Bidders Project References PR-1	<input type="checkbox"/>	
8.6.	List of Subcontractors SB-1	<input type="checkbox"/>	Separate Envelope
8.7.	Competitive Sealed Bid Certification Form CF-1	<input type="checkbox"/>	
8.8.	Certification by the Contractor Authorizing Employees To Sign Binding Agreements.....BA-1	<input type="checkbox"/>	
8.13.	Certification with Regard to the Performance of Previous Contracts or Subcontracts Subject to the Equal Opportunity Clause and the Filing of Required Reports CP-1	<input type="checkbox"/>	
8.14.	Affidavit by Contractor Certifying No Collusion in Bidding for ContractNC-1	<input type="checkbox"/>	
8.15.	Affidavit by Contractor Certifying No Lobbying.....NL-1	<input type="checkbox"/>	Separate Envelope
8.16.	Disadvantaged Business Enterprise Assurances Affidavit DBE-4	<input type="checkbox"/>	
8.17.	Disadvantaged Business Enterprise Intended Participation Summary Affidavit..... DBE-5	<input type="checkbox"/>	
	Bid Bond (as per Instruction to Bidders, 4.4 Bid Security).....28	<input type="checkbox"/>	
	Safety Information (as per Instruction to Bidders, 4.7 Bidding Phase Requirements).....28	<input type="checkbox"/>	Separate Envelope

REVISED 1/6/2010 ADDENDUM NO. 1

19	Concrete Driveway Entrance, 9-inch thick, (Tempe Std. Det. T-320)	6142 SF	
20	Remove Exist Street Light & Pole	3 EA	
21	Adjust Valve to Grade (Tempe Std. Det. T-445)	10 EA	
22	Remove & Relocate Sign	8 EA	
23	Relocate Irrigation Valve	2 EA	
24	Deomposed Granite	1 LS	
25	Driveway Retrofit Per Detail "A"	1240 SF	
26	Remove Existing Hydrant and Install New Including New Pipe & Fittings (MAG std. Det. 360)	2 EA	
27	Detectable Warning (Tempe Std. Det. T-329)	160 SF	
28	Traffic Control	1 LS	
29	Miscellaneous Removals and Other Work	1 LS	
30	Mobilization	1 LS	
31	Arizona Pollutant Discharge Elimination System (AZPDES)	1 LS	\$7,500.00
32	Uniformed Off Duty Law Enforcement Officers Allowance	1 LS	\$1,500.00
33	Permit Fee Allowance	1 LS	
34	Street Light & J-Box (Tempe Std. Det. T-650 & T-651)	3 EA	
35	trenching for Street Light Circuit (1 1/2 inch PVC Conduit with Mule Tape)	630 LF	
36	Remove Fence	125 LF	
Total Base Bid:			

8. **EXHIBITS**

The parties agree that all references to this Contract include all exhibits designated in and attached to this Contract, such exhibits being incorporated into and made an integral part of this Contract for all purposes.

- 8.1. WAGE DETERMINATION
- 8.2. CONTRACTOR'S MONTHLY STATEMENT OF DBE UTILIZATION
- 8.3. CHECK SHEET
- 8.4. COMPETITIVE SEALED BID
- 8.5. BIDDERS PROJECT REFERENCES
- 8.6. LIST OF SUBCONTRACTORS
- 8.7. COMPETITIVE SEALED BID CERTIFICATION FORM
- 8.8. CERTIFICATION BY THE CONTRACTOR AUTHORIZING EMPLOYEES TO SIGN BINDING AGREEMENT
- 8.9. STATUTORY PERFORMANCE BOND PURSUANT TO A.R.S. §34-222
- 8.10. STATUTORY PAYMENT BOND PURSUANT TO §34-222
- 8.11. CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS
- 8.12. PROMPT PAYMENT REQUIREMENTS
- 8.13. CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS
- 8.14. AFFIDAVIT BY THE CONTRACTOR CERTIFYING NO COLLUSION IN BIDDING
- 8.15. AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES
- 8.16. DISADVANTAGED BUSINESS ENTERPRISES ASSURANCES AFFIDAVIT
- 8.17. DISADVANTAGED BUSINESS ENTERPRISE INTENDED PARTICIPATION SUMMARY AFFIDAVIT
- 8.18. CONFIRMATION OF PARTICIPATION BY DBE

[SIGNATURE PAGE TO FOLLOW]

**AFFIDAVIT DEMONSTRATING LAWFUL
PRESENCE IN THE UNITED STATES**

ARS §§1-501 and 502 require individual persons to complete this form to apply to the City for a local public benefit (defined as a grant, contract or loan). You must demonstrate through the presentation of one of the following documents that you are lawfully present in the United States.

**LAWFUL PRESENCE IN THE UNITED STATES CAN BE DEMONSTRATED BY
PRESENTATION OF ONE (1) OF THE DOCUMENTS LISTED BELOW.**

Please present the document indicated below to the City. If mailing the document, attach a copy of the document to this Affidavit. (If the document may not be copied, present the document in person to the City for review and signing of the affidavit.)

- _____ 1. An Arizona driver license issued after 1996.
Print first 4 numbers/letters from license: _____
- _____ 2. An Arizona non-operating identification License.
Print first 4 numbers/letters: _____
- _____ 3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
Year of birth: _____; Place of birth: _____
- _____ 4. A United States Certificate of Birth abroad.
Year of birth: _____; Place of birth: _____
- _____ 5. A United States passport.
Print first 4 numbers/letters on Passport: _____
- _____ 6. A foreign passport with a United States Visa.
Print first 4 numbers/letters on Passport _____
Print first 4 numbers/letters on Visa _____
- _____ 7. An I-94 form with a photograph.
Print first 4 numbers on I-94: _____
- _____ 8. **A United States Citizenship and Immigration Services Employment Authorization Document (EAD).**
Print first 4 numbers/letters on EAD: _____
- _____ 9. **Refugee travel document.**
Date of Issuance: _____ Refugee Country: _____
- _____ 10. **A United States Certificate of Naturalization.**
Print first 4 digits of CIS Reg. No.: _____
- _____ 11. **A United States Certificate of Citizenship.**
Date of Issuance: _____ Place of Issuance: _____
- _____ 12. **A tribal Certificate of Indian Blood.**
Date of Issuance: _____ Name of Tribe: _____
- _____ 13. **A tribal or Bureau of Indian Affairs Affidavit of Birth.**
Year of Birth: _____ Place of Birth: _____

I DO SWEAR OR AFFIRM UNDER PENALTY OF LAW THAT I AM LAWFULLY PRESENT IN THE UNITED STATES AND THAT THE DOCUMENT I PRESENTED ABOVE AS VERIFICATION IS TRUE.

Signature

Business/Company Address (if applicable)

Print Name

Address

Date:

City, State, Zip Code

OFFICE USE ONLY: EMPLOYEE NAME: _____
EMPLOYEE NUMBER: _____

ALL VIOLATIONS OF FEDERAL IMMIGRATION LAW SHALL BE REPORTED TO 1-866-347-2423

TABLE OF CONTENTS

1.	INTRODUCTION.....	5
1.1.	OVERVIEW OF PROJECT.....	5
1.2.	EXAMINATION OF PREMISES.....	5
1.3.	START OF WORK/TERM OF CONTRACT.....	5
2.	SCOPE OF WORK.....	5
2.1.	CONTRACTOR'S CONSTRUCTION SCHEDULE.....	6
2.2.	UNIFORM STANDARD SPECIFICATIONS.....	6
2.3.	CONTRACTOR'S REPRESENTATIVE.....	6
2.4.	SUPERVISION BY CONTRACTOR.....	6
2.5.	AUTHORITY OF CITY ENGINEER'S APPOINTED REPRESENTATIVE.....	7
2.6.	BENEFICIAL OCCUPANCY.....	7
2.7.	SUBSTANTIAL COMPLETION.....	7
2.8.	PROJECT COMPLETION.....	7
2.9.	CONTRACT COMPLETION DATE.....	7
2.10.	FINAL INSPECTION.....	8
2.11.	FINAL ACCEPTANCE & GUARANTEE.....	8
2.12.	AS-BUILT DRAWINGS.....	8
2.13.	SHOP DRAWINGS, SCHEDULES & SAMPLES.....	8
2.14.	QUALITY CONTROL.....	9
2.15.	EXCESS MATERIALS.....	9
2.16.	PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK.....	9
2.17.	SURVEY CONTROL POINTS.....	10
2.18.	HINDRANCES AND DELAYS.....	10
2.19.	SUBSIDIARY WORK.....	11
2.20.	MISCELLANEOUS WORK AND ALLOWANCES.....	11
2.21.	CHANGE ORDERS.....	11
2.22.	ADDITIONAL SERVICES.....	12
3.	SPECIAL TERMS AND CONDITIONS.....	12

3.1.	PERFORMANCE SECURITY	12
3.2.	PAYMENT	12
3.3.	PRE-BID MEETING	13
3.4.	PRE-CONSTRUCTION MEETING	13
3.5.	SUBLETTING OF CONTRACT	14
3.6.	LICENSES	14
3.7.	HAUL PERMIT	14
3.8.	MISCELLANEOUS REMOVAL AND RELOCATIONS	15
3.9.	ENVIRONMENTAL REQUIREMENTS	15
3.10.	SAFETY REQUIREMENTS	17
3.11.	TRAFFIC CONTROL	17
3.12.	CLEAN-UP	19
3.13.	APPROXIMATE QUANTITIES	19
3.14.	BLUE STAKE	20
3.15.	SALT RIVER PROJECT CONSTRUCTION CLEARANCE	
	AGREEMENT	20
3.16.	NOTIFICATION OF PROPERTY OWNERS	20
3.17.	ACCESS	20
3.18.	PROTECTION OF EXISTING FACILITIES	21
3.19.	UNDERGROUND UTILITIES	21
3.20.	RELOCATION OF UTILITIES	21
3.21.	AMENDMENT OF CONTRACT	21
3.22.	GOVERNMENT APPROVALS AND PERMITS	21
3.23.	KEY CONTACTS	22
3.24.	DUST PREVENTION	22
3.25.	COMPLAINTS FROM THE GENERAL PUBLIC	22
3.26.	INSURANCE AND BOND RATING REQUIREMENTS	22
3.27.	MINIMUM LIMITS OF INSURANCE	23
3.28.	INDEMNIFICATION	26
4.	INSTRUCTION TO BIDDERS	26
4.1.	SEALED BIDS	26
4.2.	SECURING DOCUMENTS	27

4.3.	ADDENDA	28
4.4.	BID SECURITY	28
4.5.	BIDS	28
4.6.	IRREGULAR BIDS	28
4.7.	BIDDING PHASE REQUIREMENTS	28
4.8.	PRE-CONTRACT AWARD REQUIREMENTS	29
4.9.	BID QUANTITIES	29
5.	EVALUATION AND AWARD	29
5.1.	AWARD AND EXECUTION OF CONTRACT	29
5.2.	PLANS TO THE SUCCESSFUL BIDDER	29
5.3.	ISSUANCE OF THE NOTICE TO PROCEED	30
6.	GENERAL TERMS AND CONDITIONS	30
6.1.	LIQUIDATED DAMAGES	30
6.2.	TERMINATION	30
6.3.	DEFAULT PROVISIONS	31
6.4.	WARRANTY	31
6.5.	OWNERSHIP OF DOCUMENTS/INFRINGEMENT OF PATENT OR COPYRIGHT	32
6.6.	COMPLIANCE WITH STATE AND FEDERAL LAWS	33
6.7.	JURISDICTION	34
6.8.	DISPUTE RESOLUTION	34
6.9.	SUCCESSORS AND ASSIGNS	34
6.10.	NON-WAIVER	34
6.11.	SURVIVAL	34
6.12.	SEVERABILITY	35
6.13.	INTEGRATION	35
6.14.	TIME IS OF THE ESSENCE	35
6.15.	THIRD PARTY BENEFICIARY	35
6.16.	CONFLICT OF INTEREST	35
6.17.	COOPERATION AND FURTHER DOCUMENTATION	35
6.18.	UNAUTHORIZED FIREARMS & EXPLOSIVES	36
6.19.	NOTICES/CONTRACT ADMINISTRATOR	36

6.20.	NOTICES TO CONTRACTOR	36
7.	FEDERAL PROVISIONS	37
8.	EXHIBITS	67
8.1.	WAGE DETERMINATION	WD-1
8.2.	CONTRACTOR'S MONTHLY STATEMENT OF DBE UTILITZATION	DBE-1
8.3.	CHECK SHEET	CS-1
8.4.	COMPETITIVE SEALED BID	B-1
8.5.	BIDDERS PROJECT REFERENCES	PR-1
8.6.	LIST OF SUBCONTRACTORS	SB-1
8.7.	CERTIFICATION FORM	CF-1
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8.10.	STATUTORY PAYMENT BOND PURSUANT TO A.R.S. §34-222	PB-3
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8.14.	AFFIDAVIT BY THE CONTRACTOR CERTIFYING NO COLLUSION IN BIDDING	NC-1
8.15.	AFFIDAVIT BY THE CONTRACTOR CERIFYING NO LOBBYING	NL-1
8.16.	DISADVANTAGED BUSINESS ENTERPRISES ASSURANCES AFFIDAVIT	DBE-4
8.17.	DISADVANTAGED BUSINESS ENTERPRISES INTENDED PARTICIPATION SUMMARY AFFIDAVIT	DBE-5
8.18.	CONFIRMATION OF PARTICIPATION BY DBE	DBE-6
	TECHNICAL SPECIFICATIONS	TS-1

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

NOTICE TO CONTRACTORS

**UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS
PROJECT NO. 6001921
ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C**

1. **INTRODUCTION**

THIS INVITATION FOR BIDS is hereby offered by the City of Tempe, an Arizona municipal corporation ("City") for University Drive Pedestrian Improvements as set forth herein and shall be identified as Project No. 6001921.

1.1. **OVERVIEW OF PROJECT**

The project involves construction of ADA accessible sidewalks and sidewalk ramps along University Drive from Casitas Drive to Evergreen Drive.

1.2. **EXAMINATION OF PREMISES**

Contractor shall visit the site of the project and shall fully acquaint itself with all conditions as they exist, so that it may fully understand the site, difficulties and restrictions attending the execution of the work.

Bidders shall also thoroughly examine and be familiar with the specifications and the Contract documents. Failure of Contractor to obtain, receive or examine any addenda to the proposed Contract, or to visit the site and acquaint itself with the conditions there existing, shall not relieve it from any obligation with respect to the submitted bid.

By submitting a bid, Contractor agrees that it has examined the site, specifications and Contract and accepts, without recourse, all site conditions, the proposed Contract, and all exhibits and addenda thereto.

1.3. **START OF WORK/TERM OF CONTRACT**

Work shall start as soon as practicable, but not later than seven (7) calendar days after City issues the Notice to Proceed and shall be completed within one hundred twenty (120) calendar days thereafter.

2. **SCOPE OF WORK**

The proposed work will consist of the construction of **sidewalk improvements that includes demolition of existing improvements and installation of new concrete**

sidewalk, concrete driveways, sidewalk ramps, asphalt concrete pavement, and other related works as shown on the plans specified together with associated work and shall be accomplished in accordance with the Maricopa Association of Governments 2009 Uniform Standard Specifications for Public Works Construction (“MAG Specifications”), Maricopa Association of Governments 2009 Uniform Standard Details for Public Works Construction (“MAG Details”) and City of Tempe Supplement to the MAG Specifications and MAG Details (2007) (“City of Tempe Supplement”) except as modified in the Contract.

2.1. **CONTRACTOR’S CONSTRUCTION SCHEDULE**

Prior to the start of work, a construction progress schedule shall be required and shall comply with the requirements of MAG Specifications 108.4. In addition, a schedule update comparing actual progress with scheduled progress will be required with the submission of each monthly pay request.

2.2. **UNIFORM STANDARD SPECIFICATIONS**

All work done under this Contract shall be accomplished in accordance with the MAG Specifications, MAG Details and City of Tempe Supplement except as modified in this Contract.

In the case of a discrepancy or conflict, the order in which the Contract sections govern is as follows from the highest to lowest: special terms and conditions, technical specifications, plans, general terms and conditions, City of Tempe Supplement, MAG Specifications, and MAG Details.

All bids shall be made in accordance with the General Conditions of the MAG Specifications.

2.3. **CONTRACTOR’S REPRESENTATIVE**

Contractor shall at all times be present at the worksite or represented by a foreman or other properly designated agent. Instructions and information given by City construction manager to the Contractor’s foreman or agent on the work shall be considered as having been given to the Contractor.

2.4. **SUPERVISION BY CONTRACTOR**

Contractor will supervise and direct the work. It will be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by Contractor as Contractor’s representative at the site. The supervisor shall have full authority to act on behalf of Contractor and all communications given to the supervisor shall be as binding as if given to Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

2.5. **AUTHORITY OF CITY ENGINEER'S APPOINTED REPRESENTATIVE**

City construction project manager shall act as City engineer's designated representative during the construction period. It shall advise on questions concerning coordination with the City, public safety, and quality and acceptability of materials and work performed. City engineer, City construction project manager, or its assigned inspector shall interpret the intent of the Contract plans, specifications, and technical provisions in an unbiased manner.

City engineer, City construction project manager, or its assigned inspector shall be present on the site at times during construction to monitor the work and to maintain records for Contract management. City construction project manager shall promptly make decisions relative to the interpretation of the Contract so as to minimize delays in construction. City construction project manager will not be responsible for directing construction, control, techniques, sequence, or procedures, or for directing job safety.

2.6. **BENEFICIAL OCCUPANCY**

Beneficial occupancy is use of a facility or project, in whole or in part, by City for its intended purpose. This may occur even though some work of the Contract remains undone. Prior to such use or occupancy, City will provide notice to the Contractor and accomplish a partial acceptance inspection.

2.7. **SUBSTANTIAL COMPLETION**

Substantial completion is work which is ready for occupancy and use for its intended purpose as certified by a certificate of occupancy.

2.8. **PROJECT COMPLETION**

Project completion is full completion of all construction associated with the Contract, including, but not limited to punch list items, close out documentation, operations and maintenance manuals, warranties, and record plans as certified by the design professional of record. Contractor may be found in default of this Contract in accordance with MAG Specifications 108.10 should project completion fall behind substantial completion by more than forty-five (45) days.

2.9. **CONTRACT COMPLETION DATE**

The completion date established by reference to the Notice to Proceed date issued by City is for completion of all or specified portions of the work. This includes items of work to be completed under an owner allowance or as part of a contingency item. The stated Contract completion date will take into account anticipated or actual weather conditions that are not unusually severe for the area and time of year. This date may be expressed as a calendar date or a number of calendar days after issuance of the Notice to Proceed.

If time extensions are issued by the City, this revised Contract completion date will be referred to as the adjusted contract completion date.

2.10. **FINAL INSPECTION**

Contractor is responsible for complying with the specifications and is hereby forewarned that final approval of any work will not be given until the entire project is completed and accepted by the City. Prior to final inspection on any City facilities requiring a building permit, Contractor must call for final inspection from the Development Services Department and Public Works Department of the City. The final inspection must be completed prior to final acceptance and payment by City engineer.

2.11. **FINAL ACCEPTANCE & GUARANTEE**

Final acceptance shall mean a written final acceptance of the work. City engineer shall make the final acceptance promptly after the work has been completed in accordance with the Contract and after inspection is made. The work performed under this Contract shall be guaranteed for a period of one (1) year from the date of final acceptance.

2.12. **AS-BUILT DRAWINGS**

Contractor shall provide and maintain accurate field data on a redlined set of Contract drawings, which are to be kept current and submitted as complete at the conclusion of the construction. These record drawings will be used as documentation for progress payments, and upon project completion, for the preparation of as-built file drawings by the architect/engineer. All as-built information shall be on 3 ml double matte black line mylar and shall be 24" x 36" in size. Final payment will not be issued until all record drawings and as-built information are submitted by Contractor, and certified to be complete by the architect/engineer of record.

2.13. **SHOP DRAWINGS, SCHEDULES & SAMPLES**

In time for each to serve its proper purpose and function, Contractor shall submit to City construction project manager such schedules, reports, drawings, lists, literature samples, instruction, directions, and guarantees as are specified or reasonably required for construction, operation, and maintenance of the facilities to be built and/or furnished under this Contract.

Shop drawings and data shall be submitted to City construction project manager in such number of copies as will allow them to retain four (4) copies of each submittal.

The submittal shall clearly indicate the specific area of the Contract for which the submittal is made. The additional copies received will be returned to the

Contractor's representative at the job site. City construction project manager's notations of the action taken will be noted on one (1) of these returned copies.

The above drawings, lists, prints, samples, and other data shall become a part of the Contract and a copy of the same shall be kept with the job site Contract, and the fabrications furnished shall be in conformance with the same.

However, City construction project manager's review of the above drawings, lists, prints, specifications, samples, or other data shall in no way release Contractor from its responsibility for the proper fulfillment of the requirements of this Contract nor for fulfilling the purpose of the installation nor from its liability to replace the same, should it prove defective or fail to meet the specified requirements.

2.14. **QUALITY CONTROL**

All material shall be new and of the specified quality and equal to the accepted samples, if samples have been submitted. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from the Contract and it shall be the duty of Contractor to call City construction project manager's attention to apparent errors or omissions and request instruction before proceeding with the work.

City engineer may, through appropriate instruction, correct errors and supply omissions, which instructions shall be as binding upon Contractor as though contained in the original Contract.

At the option of City construction project manager, materials to be supplied under this Contract will be tested and/or inspected either at its place of origin or at the site of the work. Contractor shall give City construction project manager written notification well in advance of actual readiness of materials to be tested and/or inspected at point of origin. Satisfactory tests and inspections at the point of origin shall not be construed as a final acceptance of the material nor shall it preclude retesting or reinspection at the site of the work.

2.15. **EXCESS MATERIALS**

Excess or unsuitable material, broken asphaltic concrete and broken portland cement concrete shall be disposed of by Contractor. Contractor shall, prior to commencement of the work, submit a letter to City engineer stating the location of disposal site(s) for all excess material and certifying that it has obtained the property owner's permission for the disposal of all surplus material.

2.16. **PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK**

Contractor shall properly guard and protect all finished or partially finished work, and shall be responsible for the same until that phase is completed and accepted by City engineer.

Estimate or partial payment of completed work shall not release Contractor from such responsibility prior to City's acceptance, but Contractor shall turn over the entire work in full accordance with these specifications before final payment can be made.

2.17. **SURVEY CONTROL POINTS**

Existing survey monuments shall be protected by Contractor or removed and replaced under the direct supervision of City surveyor or City surveyor's authorized representatives.

Prior to construction, Contractor shall notify City surveyor of any survey monuments which need to be referenced off of the monument. Any monuments lost that have not been referenced off due to the Contractor's negligence and/or lack of notification to City surveyor shall be replaced at Contractor's expense. Lot corners shall not be disturbed without knowledge and consent of the property owner and only after such corner has been properly referenced for replacement.

2.18. **HINDRANCES AND DELAYS**

Except as provided herein, no charge shall be made by Contractor for hindrances or delays from any cause during the progress of any portion of the work set forth in this Contract; but such delays, if due to no fault or neglect of Contractor, may entitle Contractor to a time extension sufficient to compensate for the delays. The amount of the time extension, if any, shall be determined by City engineer provided Contractor gives City engineer immediate notice in writing of the cause of such delay.

The parties agree to negotiate in good faith for the recovery of damages related to expenses incurred by Contractor for a delay for which City is solely responsible which is unreasonable under the circumstances; and which delay was not within the contemplation of the parties to the Contract at the time the Contract was entered into, and,

2.18.1. Unless specifically provided for herein, the maximum compensation for an unreasonable or unforeseen delay shall not exceed the daily amount specified for liquidated damages in MAG Specification 108.9 as based on the original Contract amount.

2.18.2. This section shall not be construed to void any provisions of this Contract, which require notice of delays, which provide for alternative dispute resolution, other procedures for settlement, or which provide for liquidated damages.

However, if the parties can reach no agreement for the recovery of damages as set forth herein, the determination of City shall be final.

2.19. **SUBSIDIARY WORK**

All work called for in the plans and specifications shall be performed by Contractor and unless a specific bid item is provided for the work, then such portion of the work will be considered subsidiary to other work for which payment is provided.

2.20. **MISCELLANEOUS WORK AND ALLOWANCES**

The following items will be included in the work with no direct payment allowed. Payment shall be included in the payment for other items for which direct payment is made.

2.20.1. Contractor's expenses for but not limited to mobilization, job site office, storage facilities, traffic control and public safety devices, sanitary facilities, utilities and telephone.

2.20.2. Cleanup including day to day cleanup.

2.20.3. Notification to residents adjacent to this project prior to start of construction which would affect them.

2.20.4. Water required for compaction or dust control.

2.20.5. Miscellaneous removals and relocations not otherwise specified in the Technical Specifications.

2.20.6. Power pole bracing.

2.20.7. Removal of trees twelve inches (12) or less in diameter.

2.20.8. Removal, relocation and/or modification of existing walls and fences.

2.20.9. Trimming of trees and bushes.

2.20.10. Replacement of plant material and repair of irrigation equipment to meet or exceed conditions existing prior to Contractor beginning work.

2.21. **CHANGE ORDERS**

In the event that significant changes in the scope of the work, and/or changes in the quantities due to contingencies of construction become necessary, such changes shall be made in accordance with Section 104.2 of the General Conditions in the MAG Specifications.

The costs associated with any extra work as authorized by the contracting agency must be approved prior to the start of work. Extra work performed on an actual cost basis shall be submitted for approval within twenty-one (21) days after the

completion of such work. The final costs for additional work shall also include all charges associated with extended general conditions or Contract acceleration.

2.22. **ADDITIONAL SERVICES**

Additional services which are outside the scope of basic services contained in this Contract shall not be performed by Contractor without prior written authorization from City. Additional services, when authorized by an executed Contract or an amendment to this Contract shall be compensated for by a fee mutually agreed upon between City and Contractor.

3. **SPECIAL TERMS AND CONDITIONS**

3.1. **PERFORMANCE SECURITY**

Bonds in the following amounts will be required of Contractor immediately after notice of Contract is awarded and must meet the requirements of A.R.S. § 34-222 as amended from time to time, including:

3.1.1. Performance bond in an amount equal to the full Contract price.

3.1.2. Payment bond in an amount equal to the full Contract price.

3.2. **PAYMENT**

3.2.1. **Method of Payment.** Payment shall be made as directed in MAG Specifications 109.

3.2.2. **Measurement of Payment.**

- a. Quantities of materials for this work shall be paid under the appropriate schedule at the applicable Contract price per unit of measurement with no allowances for waste. Payment will be made after completion upon acceptance by City, and upon City's receipt of approved invoices.
- b. Payment for various items in the Bid shall be compensation in full for furnishing all materials, labor, tools, equipment and appurtenances necessary to complete the work in a satisfactory manner as specified. No additional payment will be made for work related to any item unless specifically called for in the Bid.
- c. Materials placed without approval of the inspector or materials rejected due to improper placing, improper proportions of materials, or materials found to be defective will not be paid for.

3.3. PRE-BID MEETING

City will hold a pre-bid meeting on Tuesday, December 29, 2009, at 9:00 a.m. in the Public Works Department conference room, located at 31 East Fifth Street, Tempe, Arizona, garden level, west wing. City staff will be present to address questions pertaining to existing conditions or the bidding process at that time. Bidders are not required to attend the pre-bid meeting, but are encouraged to do so.

3.4. PRE-CONSTRUCTION MEETING

Contractor will be required to attend a City safety briefing. The safety briefing session shall address the following issues:

3.4.1. City safety rules and expectations.

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

3.4.3. Accident/Injury/Illness Procedures. City's construction project manager and the Risk Management Division shall be contacted within twenty-four (24) hours, upon the occurrence of any accident, injury or illness on the project.

3.4.4. Unsafe Acts. Contractor employees shall take any and all reasonable acts to stop an unsafe act or condition at City facilities.

3.4.5. Safety Audits. City reserves the right to conduct safety audits at the job site at any time. In addition, Contractor shall notify City should an OSHA inspection occur at a City job site.

3.4.6. Job and Site Specific Requirements. Contractor shall comply with all site specific requirements such as lockout/tagout rules and evacuation plans, which shall be covered during safety briefing(s) by City.

3.4.7. If applicable to the project Contractor shall:

- a. Implement a permit-required confined space program as required under federal and state statutes and/or regulations, and amendments thereto, for all work that encompasses a space that 1) is large enough and so configured that an employee can bodily enter and perform assigned work; 2) has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and 3) is not designed for continuous employee occupancy.

As a part of Contractor implementing a confined space program, Contractor shall provide trained attendant(s) and all intrinsically safe confined space entry related equipment (for example, ladders, gas

detectors, safety harnesses, safety tripods, and electrical devices) as needed for safe entry of a confined space.

3.4.8. When any City employee is required to enter a confined space during the construction phase of a project, such as for the purpose of inspection, Contractor shall provide a trained attendant and all necessary equipment required for safe entry of the City employee.

3.4.9. Safety will be included in each agenda for the weekly construction meetings. Items of discussion will be outstanding safety and health issues, current safety meeting topics, environmental issues and any accidents or injuries on the job. City reserves the right to obtain copies of all agendas and minutes of the meetings, and documentation of any safety tailgate meetings held regarding the job site.

3.5. **SUBLETTING OF CONTRACT**

In accordance with Section 108 of the Maricopa Association of Governments Uniform Standard Specifications, Contractor shall perform, with Contractor's own organization, construction work that amounts to not less than fifty percent (50%) of the total Contract price for construction. The total Contract price for construction does not include the cost of preconstruction services, design services or any other related services or the cost to procure any right-of-way or other cost of condemnation.

3.6. **LICENSES**

Contractor and all subcontractors must carry the appropriate State of Arizona contractor's license for the proposed work at the time of bid. If the low bidder does not have the appropriate license, City reserves the right to reject their bid and award the project to the lowest responsible bidder who has the appropriate license.

Prior to execution of the Contract, the low bidder must possess a valid City Transaction Privilege License and shall provide the permit number of such for validation.

3.7. **HAUL PERMIT**

In any operation where more than one-tenth of an acre of surface area is disturbed and/or when unpaved onsite haul roads are used, Contractor will obtain a Maricopa County Earth Moving Permit as required under Rule 200 of the Maricopa County Division of Air Pollution Control Requirements. This permit will require that a control plan to mitigate dust and tracking problems be submitted to the County for approval prior to issuance of the Earth Moving Permit. The control plan should be submitted to City for review prior to County submittal to ensure that all elements of the planned operation are covered. Please

contact the Maricopa County Division of Air Pollution Control at 602-506-6700 for additional details.

In addition, all Contractors hauling fill or excavation materials where the haul exceeds five thousand (5,000) cubic yards or when the duration of the haul is more than ten (10) working days, are required to obtain a City haul permit before the hauling operation begins.

Prior to receiving a hauling permit, Contractor must submit the required certificate of insurance, a plan showing the proposed haul routes and a complete schedule of the hauling operation to the City Transportation Division. Prior to submittal, Contractor should contact Engineering Services for complete details for issuance of the City haul permit.

3.8. MISCELLANEOUS REMOVAL AND RELOCATIONS

Miscellaneous removals and relocations shall be construed to mean the removal of all unsuitable materials whether designated or implied by the plans and specifications, and shall include but not be limited to the removal of such items as pipes, concrete, asphalt, block, brick, rock, metal, etc. of every nature and description, unless such items are specifically designated in a separate bid item. Also, certain items require temporary removal and reinstallation such as mail box stands, sign posts, survey monument frames and covers, etc., and are included in this category.

3.9. ENVIRONMENTAL REQUIREMENTS

3.9.1. Contractor covenants and agrees that it shall, at all times during the term of the Contract, and at its sole cost and expense, comply with and assume sole responsibility and liability under all environmental laws applicable to use of or operations at the project site by Contractor, its agents, assigns and/or employees. Contractor agrees that should it or any of its agents, assigns or employees know of (a) any violation of environmental laws relating to the project site, or (b) the escape, release or threatened release of any hazardous materials in, on, under or about the project site, Contractor shall promptly notify City in writing of such, and that it will provide all warnings of exposure to hazardous materials in, on, under or about the project site in strict compliance with all applicable environmental laws. Further, Contractor covenants and agrees that it shall at no time use, analyze, generate, manufacture, produce, transport, store, treat, release, dispose of or permit the escape of, or otherwise deposit in, on under or about the project site, any hazardous materials, or permit or allow any of its agents, assigns or employees to do so. Prior to use of the project site Contractor shall provide City an inventory of all equipment and materials stored and/or to be stored at the project site.

3.9.2. For purposes of this Contract, hazardous materials shall include but is not limited to, any and all substances, chemicals, wastes, sewage or other

materials that are now or hereafter regulated, controlled or prohibited by any environmental laws, including without limitation, any (a) substance defined as a “hazardous substance”, “extremely hazardous substance”, “hazardous material”, “hazardous chemical”, “hazardous waste”, “toxic substance” or “air pollutant” by federal laws, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., the Toxic Substances Control Act, 15 U.S.C. §2601, et seq., and all amendments thereto, or other similar governmental restrictions; and (b) any chemical, compound, material, substance or other matter that: (i) is a flammable explosive, asbestos, radioactive material, nuclear material, drug, vaccine, bacteria, virus, hazardous waste, toxic substance, injurious by itself or in combination with other materials; (ii) is controlled, designated in or governed by any hazardous materials laws; (iii) gives rise to any reporting, notice or publication requirements under any hazardous materials laws; or (iv) gives rise to any liability, responsibility or duty on the part of City or Contractor with respect to any third person under any hazardous materials laws.

3.9.3. In addition, Contractor must comply with the following requirements:

- a. Non-pick up sweepers will not be allowed except as required to make joints during chip sealing operations.
- b. Water flooding of trenches with potable water will not be permitted.
- c. All paints applied by sprayers shall be of a water-based type.
- d. Provisions shall be made to prevent the discharge of construction silt, mud, and debris into City storm drains or streets.
- e. Spills of oil, gas, chemical, or any other hazardous materials must be reported and removed by approved procedures. Mitigation measures shall be taken to prevent contamination of construction storage sites.
- f. Concrete waste must be disposed of in an approved location and at least twenty-five (25) feet from established landscaping.
- g. City refuse roll-off containers shall be used on City projects. If you should have any questions concerning any of the requirements or charges, please contact the Sanitation Supervisor, at 480-350-8268.
- h. Hazardous wastes shall not be discharged into City’s sanitary sewers or storm drainage system. All waste products shall be disposed of in accordance with applicable regulations.

- i. The discovery of archeological ruins or artifacts must be reported immediately, and excavation shall not resume in the identified area until approved by the engineer.
- j. Contractor shall take whatever steps, procedures, or means to prevent abnormal, material spillage, or tracking conditions due to their construction operations in connection with the Contract. The dust control measures shall be maintained at all times during construction of the project, to the satisfaction of City engineer, in accordance with Rule 200 of the Maricopa County Health Department Air Pollution Control Regulations, which require that an Earth Moving Permit be issued and a Control Plan be approved prior to commencement of work. Contact Maricopa County at 602-506-6700 for details.
- k. Contractor shall comply with all applicable federal regulations concerning NPDES permits for storm discharges from construction sites.
- l. All materials supplied by Contractor shall be one hundred percent (100%) asbestos free unless otherwise approved by City.

No additional payment will be made for compliance with the above items.

In addition to the above, the use of new products made with reclaimed material and that meet project specifications, is encouraged.

3.10. **SAFETY REQUIREMENTS**

Contractor shall comply with all applicable federal, state, local, health and safety regulations, ordinances, and requirements including but not limited to, the Federal Occupational Safety and Health Act of 1970 (29 U.S. § 651 et seq.), and all rules, regulations, and orders adopted pursuant thereto.

3.11. **TRAFFIC CONTROL**

- 3.11.1. All traffic shall be regulated in accordance with the MAG Specifications; the City of Phoenix Traffic Barricade Manual, latest edition, with City revisions, available at the Contractor's request through the City Transportation Division (Transportation) at 480-350-8219; the Manual on Uniform Traffic Control Devices (MUTCD); and any special provisions included herein.

At or around the time of the pre-construction conference, Contractor shall designate an American Traffic Safety Services Association (ATSSA) certified individual who is well qualified and experienced in construction traffic control and safety, to be responsible for implementing, monitoring, and altering traffic control measures as necessary to ensure that traffic is carried through the work area in an effective manner and that motorists, pedestrians, bicyclists, and workers are protected from hazard including

but not limited to, motor vehicle accidents. City shall designate a representative who will oversee and monitor the Contractor's agent and enforce City's requirements set forth herein. Contractor covenants to give City any assignment and/or assurances which may be necessary to affect such right of direct enforcement.

Contractor is solely responsible for and assumes full liability for the traffic control relating to this project. Contractor shall submit a traffic control plan to City for its review and approval no less than one (1) week prior to commencing work under this Contract. Traffic as referenced herein, shall include any and all motor vehicles, bicyclists, and pedestrian traffic on roadways, sidewalks, bicycle paths, alleys and/or rights of way at, attendant to and/or adjacent to the Project.

In the event alteration of traffic control is required for work or services provided herein, alterations shall be made in accordance with the latest edition of Part VI of the Manual on Uniform Traffic Control Devices, "Traffic Control for Streets and Highway Construction and Maintenance Operations", the latest edition of the ADOT Traffic Control Manual, or the City of Phoenix Traffic Barricade Manual, latest edition, with revisions as adopted by the City. The most restrictive provision shall apply. Unless identified otherwise in the Technical Specifications, City will undertake no responsibility or expenses relating to measurement, payment, or alteration of traffic control. All costs or expenses related to traffic control shall be considered incidental to other pay items. Any and all revisions relating to traffic and/or traffic control shall be submitted to City for review and approval in City's sole discretion.

Contractor is solely responsible for any and all loss, damage, replacement or repair necessitated to any traffic signal equipment, traffic signal conduit, and/or circuits, arising from or relating to Contractor's work or services performed hereunder. Contractor shall have all repairs performed immediately at its sole expense by a licensed electrical contractor with experience in traffic signal repair, subject to pre-approval by the City. Any and all repairs and/or replacement costs expended by City in this regard shall be reimbursed by Contractor at twice the City's actual cost.

Contractor shall notify all adjacent or affected residents or businesses at least forty-eight (48) hours in advance of any street, alley, sidewalk, and/or driveway closures or modifications, and make suitable arrangements to have all vehicles moved to a satisfactory location outside the closed area. Pedestrian access shall be maintained along the length of the project at all times per the requirements of the ADA and as approved by Transportation. Contractor shall abide by applicable speed limits. Additional information may be obtained by contacting the City Transportation Division at 480-350-8219.

3.11.2. Temporary Barricades

Temporary barricades shall be regulated in accordance with the City of Phoenix Traffic Control and Barricade Manual, latest edition, with City revisions, available through the City Transportation Division at 480-350-8219.

No additional payment by the City will be made to Contractor or its subcontractor for temporary barricades.

3.12. CLEAN-UP

Contractor agrees and covenants to adequately protect the work site, adjacent property and the public in all phases of the work and/or services provided herein. Contractor shall be solely responsible for all damages or injuries due to action or neglect pursuant to this section. Contractor shall maintain access to all phases of the project pending inspection by City or its agent. Contractor hereby agrees to the following as to the job site: continually keep the job site free from debris, waste and accumulation of materials; immediately clean up any oil, fuel or chemical spills and take any and all remediation necessary; keep machinery clean and free of weeds and debris; remove all construction stains, smears and debris from finished surfaces; perform site preparation to limit the spread of weeds, debris and other nuisances prior to submission of final invoice to the City; and, remove all equipment, materials, tools and Contractor's personal property prior to submission of final invoice to the City.

Contractor shall respond within five (5) calendar days after notice by City of any defects and/or maintenance requests to immediately remedy the condition of the job site. Should Contractor fail to respond promptly as set forth herein, City shall correct the job site at the expense of the Contractor, and recover all attendant costs.

3.13. APPROXIMATE QUANTITIES

It is expressly understood and agreed by the parties hereto that the quantities of the various classes of work to be done and material to be furnished under this Contract, which have been estimated, as stated in the Invitation for Bids, are only approximate and are to be used solely for the purpose of comparing, on a consistent basis, the bids offered for the work under this Contract. Contractor further agrees that City will not be held responsible if any claim for damages or for loss of profits because of a difference between the quantities of the various classes of work as estimated and the work actually done.

If any error, omission, or misstatement is found to occur in the estimated quantities, the same shall not invalidate this Contract or release Contractor from the execution and completion of the whole or any part of the work in accordance with the plans and specifications herein mentioned, and for the prices herein agreed upon and fixed therefore, or excuse Contractor from any of the obligations

or liabilities hereunder, or entitle Contractor to any damages or compensation except as may be provided for in this Contract.

3.14. **BLUE STAKE**

Contractor is required to notify Arizona Blue Stake, Inc. at 602-263-1100 or otherwise first determine whether underground facilities will be encountered, and if so where they are located from each and every underground facilities operator and take measures for control of the facilities in a careful and prudent manner, prior to the excavation of any material in accordance with A.R.S § 40-360.22, et seq. Contractor shall contact City for marking of electrical underground apparatus for traffic signals, sprinkler and irrigation facilities prior to undertaking any work.

3.15. **SALT RIVER PROJECT CONSTRUCTION CLEARANCE AGREEMENT**

Salt River Project requires all contractors if working on its facilities, to sign a standard form "Construction Clearance Agreement" prior to issuance of a license. Contractor shall execute the Construction Clearance Agreement with Salt River Project, if required, and furnish a copy to City prior to proceeding with any construction on Salt River Project facilities. This agreement sets forth the requirements to complete the proposed work in an allotted time frame or to pay full costs for others to complete. It also obligates Contractor to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances including, but not limited to, the OSHA Permit Required Confined Space rules, as amended.

3.16. **NOTIFICATION OF PROPERTY OWNERS**

Contractor shall notify all property owners that may be affected by the proposed construction activities of scope and duration of the construction activities prior to start of any work or construction.

3.17. **ACCESS**

Contractor shall maintain public access to adjacent businesses of the job site at all times during construction. Where property has more than one point of access, no more than one access shall be restricted or closed at any one time. If only one driveway exists, access shall be maintained to at least one-half of the driveway at a time. Access to adjacent private driveways shall be maintained by Contractor during all non-working hours.

3.18. **PROTECTION OF EXISTING FACILITIES**

Contractor shall protect all existing facilities during construction or work. Utility poles that may be affected by construction activities shall be protected and/or braced by the Contractor. Contractor shall notify the appropriate utility company or agency of any construction or work that may affect their facilities and state the course of action which will be taken to protect same.

3.19. **UNDERGROUND UTILITIES**

Underground utilities indicated on the plans are in accordance with maps furnished by City and by each utility company. The locations are approximate and require verification prior to construction as mandated by City requirements for underground street crossings and potholing.

3.20. **RELOCATION OF UTILITIES**

All utilities in conflict with the new work will be relocated by the utility company except as otherwise provided in the plans and specifications.

3.21. **AMENDMENT OF CONTRACT**

No supplement, modification or amendment of any term of this Contract will be deemed binding or effective unless in writing and signed by the parties hereto and in conformation with provisions of this Contract except as expressly provided herein to the contrary.

3.22. **GOVERNMENT APPROVALS AND PERMITS**

3.22.1. Unless otherwise provided, Contractor shall obtain all necessary permits, approvals and licenses required for the prosecution of the work from any government or quasi-government entity having jurisdiction over the project at its sole expense. Contractor expressly covenants and agrees that it will obtain any and all necessary environmental permits and/or file the necessary environmental notices at its cost prior to undertaking work or performing services hereunder.

3.22.2. Copies of all permits and notices must be provided to City's representative prior to starting any work or performing services pursuant to the permitted activity. This provision does not constitute an assumption by City of an obligation of any kind for violation of said permit or notice requirements.

3.22.3. City agrees to be responsible for City's own review and permit(s) fees for building and demolition permits only. In addition, City shall bear its own review fees for grading and drainage, water, sewer, and landscaping. City may agree to pay utility design fees for permanent services in its sole discretion. Contractor shall be solely responsible for

any and all other permit(s) and review fees not specifically designated herein.

- 3.22.4. Contractor is responsible for all costs of water meter(s), water and sewer taps, fire lines and taps, and all water bills on the project meters until completion of the project. Arrangements for water at the site or for construction purposes are the Contractor's sole responsibility.

3.23. **KEY CONTACTS**

City of Tempe Engineering	Kent Clayton	480-350-8398
City of Tempe Transportation	Ramon Mata	480-350-2924
City of Tempe Transportation	Robert Yabes	480-350-2734
City of Tempe Construction Manager	Larry Fosholt	480-350-2922
Blue Stake Center		602-263-1100

3.24. **DUST PREVENTION**

Contractor shall take whatever steps, procedures, or means to prevent dust conditions due to their construction operations in connection with this Contract. The dust control measures shall be maintained at all times during construction of the project, to the satisfaction of engineer, in accordance with requirements of the "Maricopa County Health Department Air Pollution Control Regulations".

Prior to the pre-construction meeting, Contractor shall have an approved dust control plan approved by the Maricopa County Division of Air Pollution Control. For information and requirements for dust control plan submittal, please contact the following:

Maricopa County Division of Air Pollution
2406 S. 24th Street, Suite E-214
Phoenix, AZ 85034
602-506-6727

All costs associated with submittal, approval, and implementation of the dust control plan as approved by the County and shall be considered incidental to the project.

3.25. **COMPLAINTS FROM THE GENERAL PUBLIC**

Contractor shall respond to any and all claims or complaints from the general public in a reasonable and prompt manner.

3.26. **INSURANCE AND BOND RATING REQUIREMENTS**

Contractor shall execute a bond for any and all work or services performed hereto, in accordance with A.R.S. § 34-222, as amended from time to time. Personal or individual bonds are not acceptable. Bonding companies and liability and excess

insurance carriers shall be "Best Rated A-VII" or better as currently listed in the most recent Best's Key Rating Guide (Property/Casualty) published by the A.M. Best Company. This requirement does not apply to the Workers' Compensation/Employers Liability portion on the Certificate of Insurance.

Each such bond shall be executed by a surety company or companies duly licensed to do business in the State of Arizona. The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in this State and the bonds shall have attached thereto a certified copy of power of attorney of the signing official.

3.27. MINIMUM LIMITS OF INSURANCE

3.27.1. Contractor shall maintain limits no less than:

- a. Commercial General Liability: \$2,000,000 combined single limit per occurrence for bodily injury and property damage, including coverage for contractual liability (including defense expense coverage for additional insureds), premises/operations, underground explosion and collapse hazard, personal injury, broad form property damage, products and completed operations, independent contractors and product liability. The general aggregate limit shall apply separately to this project/location or the general aggregate shall be twice the required occurrence limit.
- b. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage, including coverage for owned, hired, and non-owned vehicles as applicable.
- c. Excess Liability (umbrella form): As required.
- d. Workers' Compensation and Employers Liability: Workers' Compensation and Employers Liability statutory limits as required by the State of Arizona.
- e. Health Insurance: As required by City.

City shall have no responsibility or liability for such insurance coverage.

3.27.2. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officials, employees, and volunteers, or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

3.27.3. Other Insurance Provisions

The policies or self-insurance certifications are to contain, or be endorsed to contain, the following provisions:

a. Commercial General Liability and Automobile Liability Coverage:

City, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor including the insured's general supervision of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor, or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents or volunteers, for work related to Contractors, employees, agents, subcontractors, or sub-subcontractors activities.

Contractor's insurance coverage shall be primary as respects City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute to it.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officers, officials, employees, agents, or volunteers.

Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

b. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees, agents and volunteers for losses arising from work performed by Contractor for City.

c. All Coverages

Each insurance policy required by this Contract shall be endorsed to state that the coverage shall not be suspended, voided, and/or canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

3.27.4. Other Insurance Requirements

Contractor shall:

- a. Prior to commencement of services, furnish City with certificates of insurance, in form and with insurers acceptable to City which shall clearly evidence all insurance required in this Contract and provide that such insurance shall not be canceled, allowed to expire or be materially reduced in coverage except on thirty (30) days prior written notice by certified mail to the City, and in accord with stated insurance requirements of this bid solicitation. MAG Specification 103.6 is fully incorporated into this Contract, except to the extent it conflicts with the limits set forth in this Contract. The insurance policies required by MAG Specification 103.6 shall additionally provide full coverage of indemnity to the City, including an increase in the minimum limits to \$2,000,000 combined single limit coverage for General Liability. Prior to execution of the Contract, Contractor shall furnish City with a Certificate of Insurance as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall identify the project and shall provide for not less than thirty (30) days advance written notice to City by certified mail of cancellation or termination. Any cancellation clause shall not include the phrases "endeavor to" or "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives." City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed waiver of City's right to insist on, strict fulfillment of Contractor's obligations under this Contract.
- b. Provide certified copies of endorsements and policies if requested by City in addition to certificates of insurance.
- c. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
- d. Maintain such insurance from the time services commence until services are completed. Should any required insurance lapse during the Contract term, requests for payments originating after such lapse shall not be processed until City receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. If insurance is not reinstated, City may at its sole option, terminate this Contract effective on the date of such lapse of insurance.
- e. Place such insurance with insurers and agents licensed and authorized to do business in Arizona and having a "Best's" rating of no less than A-VII.

3.27.5. Subcontractors and Sub-Subcontractors

Contractor shall include all subcontractors and sub-subcontractors as insureds under its policies. All coverage for subcontractors and sub-subcontractors shall be subject to all of the requirements stated herein for the Contractor.

3.28. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall defend, indemnify and hold City harmless, including City's agents, officers, assigns, officials and employees from and against all claims, damages, losses, liability and/or expenses, relating to, arising out of or alleged to have resulted from any negligent acts, errors, mistakes or omissions in the work or services performed by Contractor and its agents, employees, subcontractors or assigns, for whom Contractor may be deemed responsible, relating to any goods, services or materials arising from or relating to any term or covenant of this bid. The amount and type of insurance coverage required of Contractor as set forth herein will in no way be construed as limiting the scope of Contractor's duties to indemnify City. This provision shall survive the contract term.

4. INSTRUCTION TO BIDDERS

4.1. SEALED BIDS

Sealed bids will be received and the time of delivery recorded by the City of Tempe, Arizona, Public Works Department, Engineering Office, City Hall West Garden Level, 31 East Fifth Street, Tempe, Arizona 85281, until **10:00 a.m., January 12, 2010**. At that time and place, bids will be opened and the amount of each bid and the name of each bidder publicly read in the Public Works Conference Room. Bids received after the time specified will be returned unopened. All bids shall be submitted in a sealed envelope. The outside lower right-hand corner shall be marked:

BID OF _____, CONTRACTOR

FOR: UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS

**PROJECT NO. 6001921
ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C**

If a bid is mailed or delivered via overnight mail service, the outside envelope should be marked with the **date and time of the bid opening, as well as the words "PUBLIC WORKS ENGINEERING BID OPENING."** Please allow sufficient time for delivery.

A bid guarantee by certified check, cashier's check or surety bond in the amount of ten percent (10%) of the bid shall be submitted with the bid. Personal or individual surety bonds are not acceptable. City requires all bonding companies and liability and excess insurance carriers to have a rating of "A-VII" or better as listed in the most recent "Best's Key Rating Guide (Property/Casualty)" published by A.M. Best Company. The certified check, cashier's check or surety bond shall be returned to the Contractors whose bids are not accepted and to the successful Contractor upon the execution of a satisfactory bond and Contract.

All Contractors are required to submit from their insurance carriers, a three (3) year history of both their Experience Modification Factor (EMOD) and their loss ratio, among other things. In addition, all Contractors are required to submit an affidavit certifying that their company and all of its subcontractors, defined as doing work in excess of \$30,000 as determined at the start of each project, will have and will continue to have during the course of the Contract, health insurance in force for all project employees. The employer must also offer insurance to project employees for their eligible dependents.

A set of plans and specifications are available from the City of Tempe Engineering Division (480-350-8200), 31 E. Fifth Street, Garden Level, Tempe, Arizona. The return of such plans and specifications shall be guaranteed by a deposit of twenty five dollars (\$25.00) which shall be refunded upon return of the plans and specifications in good order within seven (7) calendar days from the date of purchase. Specification books must be returned with original binding intact.

The City of Tempe may reject any and all bids and waive any informality in the bids received.

Award will be made or bids rejected within sixty (60) days after bid opening.

Please direct any questions to the City of Tempe Engineering Division at 480-350-8200. The City Project Construction Manager for this project is Kent Clayton.

Anyone wishing to receive future notices through automatic notification by email can register their company name and email address at www.tempe.gov/engineering/email_bid_list.htm.

4.2. **SECURING DOCUMENTS**

Copies of specifications, special provisions, and other proposed Contract related documents are on file in the office of the City Engineer, City Hall, 31 East Fifth Street, Tempe, Arizona, and are open for public inspection. A set of plans and specifications may be obtained from City engineer. **The return of such plans and specifications shall be guaranteed by a deposit of twenty five dollars (\$25.00) which shall be refunded upon return of the plans and specifications**

in good order within seven (7) calendar days from the date of purchase. Specification books must be returned with original binding intact.

4.3. **ADDENDA**

Addenda issued prior to the deadline for bidding shall be attached to and made a part of the Contract.

4.4. **BID SECURITY**

Each bid shall be accompanied by a certified check, cashier's check, or surety bond in an amount equal to at least ten percent (10%) of the bid, payable without condition to City as a guarantee that the bidder, if awarded the Contract, will promptly execute the Contract in accordance with the bid and in the manner and form required by the Contract. Each surety bond shall be executed by a surety company or companies duly authorized to do business in the State of Arizona and all bond documents shall be executed pursuant to the requirements of A.R.S. §34-322, as amended from time to time.

4.5. **BIDS**

Bids shall be properly executed upon the Competitive Sealed Bid form attached and made a part of this Contract. The signature of all persons signing shall be in longhand. The completed forms shall be without interlineations, alterations, or erasures. Unit prices should be rounded to the nearest whole cent (two spaces behind the decimal point). In case of an error in the extension of unit prices and the totals, the unit price shall govern.

Bids shall not contain any recapitulations of the work to be done. Alternative bids will not be considered except as called for. No oral, telegraphic, or telephonic bids or modifications will be considered.

4.6. **IRREGULAR BIDS**

Bids may be considered irregular and may be rejected if any of the unit prices quoted in the bidding schedule are unbalanced, either above or below the amount of a reasonable bid price, to the potential detriment of the City.

4.7. **BIDDING PHASE REQUIREMENTS**

Bidders shall submit current loss history information from all their insurance carriers in a separate envelope with their bid. The information specific to workers' compensation insurance carriers must include a three (3) year history of both their Experience Modification Factor (EMOD) and their loss ratio. This information must be provided with the bidder's proposal.

4.8. **PRE-CONTRACT AWARD REQUIREMENTS**

4.8.1. Contractor shall provide a copy of their written health and safety program and any required employee training records or certificates.

4.8.2. Insurance Confirmation. Contractor shall provide proof of ability to obtain certificates of insurance and meet indemnification criteria.

4.8.3. Taxes. All applicable taxes due and owing by Contractor and all subcontractors shall be considered by the City in determining award. At all times, the determination of applicable taxes and rates, and remitting taxes owed shall be the sole responsibility of Contractor. Should any taxes owed to the City by Contractor or any subcontractors, including privilege (sales) and use tax, not be remitted in full prior to Contract award, the Bid shall be considered non-responsive and rejected by City.

4.9. **BID QUANTITIES**

The quantities listed in the specifications are for bid purposes. The actual quantities provided to Contractor may be adjusted to accommodate field requirements.

5. **EVALUATION AND AWARD**

5.1. **AWARD AND EXECUTION OF CONTRACT**

Except as provided herein to the contrary, the respective rights and remedies of the parties to this Contract shall be cumulative and in addition to any rights and remedies not specified in this Contract. It is understood that there are no oral or written agreements or representations between the parties hereto affecting this Contract and that this Contract supersedes any and all prior negotiations, arrangements, representations and understandings between the parties. No provision of this Contract may be amended except by an agreement in writing signed by City. This Contract, including exhibits and attachments attached hereto, signed by City and Contractor, constitutes the entire agreement between the parties and shall be effective upon the date set forth herein. Contractor shall execute the Contract, counterparts permitted, within ten (10) calendar days after formal notice of award of Contract by City. Failure to execute this Contract and file satisfactory contract bonds and insurance certificates as provided herein within ten (10) calendar days after the date of notice of award is issued shall result in cancellation of the award and this Contract may be voided at the option of the City.

5.2. **PLANS TO THE SUCCESSFUL BIDDER**

The successful bidder may obtain (7) sets of plans and specifications for this project from the office of City Engineer, at no cost.

If bidder desires more than seven (7) sets, the successful bidder shall be required to pay the reproduction cost of twenty five dollars (\$25.00) each.

5.3. **ISSUANCE OF THE NOTICE TO PROCEED**

Notwithstanding unforeseeable circumstances, the Notice to Proceed shall be issued by the City within thirty (30) days of contract award.

6. **GENERAL TERMS AND CONDITIONS**

6.1. **LIQUIDATED DAMAGES**

Unless otherwise specified, liquidated damages will be applied in accordance with the MAG Specifications 108.9. Completion of the work as stated in this Contract is the same as completion of the work as stated in MAG Specifications 108.9. Damages will be applied at the amounts specified in Table 108-1.

6.2. **TERMINATION**

In addition to MAG Specifications 108.11, City, at its sole discretion, may terminate this Contract for convenience or abandon any portion of the project for which services have not been performed by Contractor, upon fourteen (14) days written notice delivered to Contractor personally or by certified mail.

Immediately after receiving such notice, Contractor shall discontinue advancing the services under this Contract and proceed to close said operations under this Contract. Contractor shall appraise the services it has completed and submit an appraisal to City for evaluation. City shall have the right to inspect and approve the Contractor's work to appraise the services completed.

Contractor shall deliver to City all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by Contractor under the Contract, entirely or partially completed, together with all unused materials supplied by City.

In the event of such termination or abandonment, Contractor shall be paid for services approved and accepted by City that Contractor performed prior to receipt of said notice of termination including reimbursable expenses previously incurred, if any.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of work completed, as reviewed and approved by City, based upon the scope of work. However, in no event shall the fee exceed the full cost of the Contract.

If City terminates or abandons the Contract, City shall make final payment within sixty (60) days after Contractor has delivered the last of the completed items and City has approved and determined the final fee.

In the event this Contract is terminated or abandoned prior to completion, City may complete the work, or enter into a Contract with another party for the remaining work.

This Contract may be terminated pursuant to A.R.S. § 38-511.

6.3. **DEFAULT PROVISIONS**

Contractor shall be deemed in default under this Contract upon the occurrence of any of the following events:

- 6.3.1. Contractor provides material that does not meet the specifications of the Contract and fails to cure such non-performance within ten (10) days after written notice from City;
- 6.3.2. Contractor fails to adequately perform the services set forth in the plans and specifications of and fails to cure such non-performance within ten (10) days after written notice from City;
- 6.3.3. Contractor fails to complete the work required or furnish the materials required within the time stipulated in the Contract and fails to cure such non-performance within ten (10) days after written notice from City;
- 6.3.4. Contractor fails to make progress in the performance of the Contract and/or gives City reason to believe that Contractor will not or cannot perform to the requirements of the Contract and fails to cure such non-performance within ten (10) days after written notice from City;
- 6.3.5. Contractor fails to perform any other term or condition of this Contract and fails to cure such non-performance within ten (10) days after written notice from City.

In case of default, City may terminate the Contract, in whole or in part, and/or may resort to any other remedy as provided by law. City may also perform any test or analysis on materials (equipment/products) for compliance with the specifications of the Contract. Contractor shall pay the actual expense of testing if the results of any test or analysis indicate a material non-compliance with the specifications.

6.4. **WARRANTY**

Contractor warrants to City that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Specifications and Contract, of good quality, in conformance with

the Specifications and the other Contractor Contract and free of defects in materials and workmanship. Contractor's warranty obligation excludes defects caused by abuse, alterations or unreasonable failure to maintain the construction by persons other than Contractor, Subcontractors or others under Contractor's control. Nothing in this warranty shall limit any manufacturer's warranty which provides City with greater warranty rights than set forth in herein or in the Contract. Contractor will provide City with all manufacturers' warranties and operation and maintenance manuals upon substantial completion of the work. Contractor's warranty shall be for one (1) year and will commence for all portions of the work upon final acceptance of the entire work as determined by City under the Contract. All statutory or other warranties, express or implied, related to latent defects will remain in force and are not limited by this provision.

6.5. **OWNERSHIP OF DOCUMENTS/INFRINGEMENT OF PATENT OR COPYRIGHT**

All work products (electronically or manually generated) including but not limited to plans, specifications, cost estimates, tracings, studies, design analyses, original Mylar drawings, computer aided drafting and design (CADD) file diskettes which reflect all final drawings, and other related products which are prepared in the performance of this Contract are the property of City and are to be delivered to City before the final payment is made to Contractor. City shall retain ownership of these original drawings, however, if approved in writing by City, Contractor may retain the original drawings and supply City with reproducible Mylar copies. Contractor shall endorse by their professional seal all plans and special provisions furnished by them.

In the event these documents are used for another project without further consultation with Contractor, City agrees to indemnify and hold Contractor harmless from any claim arising from the reuse of the documents. City shall remove Contractor's seal and title block from such documents.

Contractor agrees to save, keep, hold harmless and fully indemnify City and any of its officers, officials, employees and agents from any and all damages, costs, or expenses in law or equity, that may at any time arise out of or be set up for any infringement of the patent right, copyright, or trademark of any person, persons, or entity in consequences of use by City, or by any of its officers, officials, employees or agents of materials supplied by Contractor and of which Contractor is not a patentee or signee or lawfully entitled to sell the same.

Contractor agrees to indemnify and hold harmless City and its officers, officials, employees and agents from any and all license, royalty and proprietary fees or costs, including legal costs, which may arise out of City's purchase and use of goods supplied by Contractor.

It is expressly agreed by Contractor that these covenants are irrevocable and perpetual.

6.6. **COMPLIANCE WITH STATE AND FEDERAL LAWS**

- 6.6.1. Specially Designated Nationals and Blocked Persons List. Contractor represents and warrants to City that neither Contractor nor any affiliate or representative of Contractor (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order No. 13224, 66 Fed.Reg. 49079 ("Order"); (ii) is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s); (iii) is engaged in activities prohibited in the Order; or (iv) has been convicted, pleaded *nolo contendere*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering. In addition, Contractor certifies that it does not have a scrutinized business operation in either Iran or Sudan.
- 6.6.2. Employment Laws. Contractor agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Arizona Fair and Legal Employment Act, and all amendments thereto, along with all attendant laws, rules and regulations. Contractor acknowledges that a breach of this warranty is a material breach of this Contract and Contractor is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Contractor. Contractor hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.
- 6.6.3. Equal Opportunity. City is an equal opportunity, affirmative action employer. Contractor hereby covenants that it shall not discriminate unlawfully against any employee or applicant for employment, nor shall it deny the benefits of this Contract, to any person on the basis of race, color, national origin, physical or mental disability, age, gender or veteran status. Contractor covenants and agrees that it will comply in all respects with the applicable provisions of the Executive Order 11246, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Vietnam Era Veterans' Readjustment Assistance Act, the Rehabilitation Act, and any other applicable state and federal statutes governing equal opportunity. Contractor agrees to post hereinafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this clause.

6.6.4. Contractor shall fully comply with all applicable terms set forth in Section 7, including but not limited to, maintenance of current registrations through the Central Contractor Registration if applicable, maintenance of records in accordance with applicable law, submission of required reports, and compliance with any applicable future federal requirements that may be imposed on the use of or receipt of federal funds, attendant to this Project. Contractor covenants that it shall hold harmless and indemnify City for any failure to fully comply herewith. Such indemnification shall survive the term of this Contract.

Contractor further agrees to include the provisions of this section in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

6.7. **JURISDICTION**

This Contract will be deemed to be made under and will be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions. An action to enforce any provision of this Contract or to obtain any remedy with respect hereto will be brought in the Superior Court of Arizona in and for Maricopa County and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

6.8. **DISPUTE RESOLUTION**

In the event of a dispute concerning questions of fact that arise during the course of the Contract, the parties will meet in good faith to attempt to resolve such questions.

6.9. **SUCCESSORS AND ASSIGNS**

This Contract shall not be assignable except at the written consent of the parties hereto and it shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

6.10. **NON-WAIVER**

The failure of either party to enforce any of the provisions of this Contract or to require performance by the other party of any of the provisions of this Contract will not be construed as a waiver of such provisions nor will it affect the validity of this Contract or any part thereof or the right of either party to thereafter enforce each provision.

6.11. **SURVIVAL**

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

6.12. **SEVERABILITY**

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

6.13. **INTEGRATION**

This Contract contains the full agreement of the parties hereto. Any prior or contemporaneous written or oral agreement between the parties regarding the subject matter hereof is merged and superseded hereby.

6.14. **TIME IS OF THE ESSENCE**

Time of each of the terms, covenants and conditions of this Contract is hereby expressly made of the essence.

6.15. **THIRD PARTY BENEFICIARY**

This Contract will not be construed to give any rights or benefits in the Contract to anyone other than City and Contractor. All duties and responsibilities undertaken pursuant to this Contract will be for the sole and exclusive benefit of City and Contractor and not for the benefit of any other party.

6.16. **CONFLICT OF INTEREST**

Contractor agrees to disclose any financial or economic interest with the project property, or any property affected by the project, existing prior to the execution of this Contract. Further, Contractor agrees to disclose any financial or economic interest with the project property, or any property affected by the project, if Contractor gains such interest during the course of this Contract.

If Contractor gains financial or economic interest in the project during the course of this Contract, this may be grounds for terminating this Contract. Any decision to terminate the Contract shall be at the sole discretion of the City.

Contractor shall not engage the services on this Contract of any present or former City employee who was involved as a decision maker in the selection or approval processes, or who negotiated or approved billings or Contract modifications for this Contract.

6.17. **COOPERATION AND FURTHER DOCUMENTATION**

Contractor agrees to provide City such other duly executed documents as may be reasonably requested by City to implement the intent of this Contract.

This Contract shall be in full force and effect only when it has been approved by City Council of the City of Tempe, Arizona, and when executed by the duly authorized City officials and the duly authorized agent of Contractor.

6.18. **UNAUTHORIZED FIREARMS & EXPLOSIVES**

No person conducting business on City property shall carry a firearm or explosive of any type. This requirement shall also apply to persons who maintain a concealed weapons permit.

6.19. **NOTICES/CONTRACT ADMINISTRATOR**

All notices relating to this Contract should be sent to the following individual, who is also the administrator of this Contract.

UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS
PROJECT NO. 6001921, ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C

Kent Clayton
City of Tempe
31 E. Fifth Street, Garden Level
Tempe, Arizona 85281
480-350-8200

This Contract shall be in full force and effect only when it has been approved by the City Council of the City of Tempe, Arizona, and when executed by the duly authorized City officials and the duly authorized agent of the Contractor.

6.20. **NOTICES TO CONTRACTOR**
(To be completed by successful bidder)

Company Name: _____

Address: _____

Phone: _____

Fax: _____

7. **FEDERAL PROVISIONS**

Required Contract Provisions Federal-Aid Construction Contracts

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Payment of Predetermined Minimum Wage
- V. Statements and Payrolls
- VI. Record of Materials, Supplies, and Labor
- VII. Subletting or Assigning the Contract
- VIII. Safety: Accident Prevention
- IX. False Statements Concerning Highway Projects
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion
- XII. Certification Regarding Use of Contract Funds for Lobbying

I. **GENERAL**

1. These contract provisions shall apply to all work performed on the contract by the Contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
Section I, paragraph 2;
Section IV, paragraphs 1, 2, 3, 4, and 7;
Section V, paragraphs 1 and 2a through 2g.
5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:
 - a. Discriminate against labor from any other State, possession, or territory of the United States, or
 - b. Employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. **NONDISCRIMINATION**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60(4.3) and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
 - a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
 - b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."
2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.
 - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)
 - c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. **Training and Promotion:**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:
- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
 - b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
 - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.
 - d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.
8. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.
- a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
 - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with

meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

- c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

- a. The records kept by the contractor shall document the following:

1. The number of minority and non-minority group members and women employed in each work classification on the project;
2. The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
4. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

- b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. **NONSEGREGATED FACILITIES**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

2. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).
3. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. **PAYMENT OF PREDETERMINED MINIMUM WAGE**

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. **General:**

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

- b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
 - 1. The work to be performed by the additional classification requested is not performed by a classification in the wage determination;
 - 2. The additional classification is utilized in the area by the construction industry;
 - 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - 4. With respect to helpers, when such a classification prevails in the area in which the work is performed.
- c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized

representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary

- e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

- a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.
- b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

a. Apprentices:

- 1. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
- 2. The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio

permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

3. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
4. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

1. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.
2. The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
3. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination

unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

4. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. **Helpers:**

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. **Apprentices and Trainees (Programs of the U.S. DOT):**

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. **Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.
- b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.
- c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
- d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 1. That the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

2. That such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;
 3. That each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.
 - f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.
 - g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:
 - a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
 - b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

- c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.
2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).
 - a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the

*construction of any highway or related project approved by the Secretary of Transportation; or
Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;
Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--
Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
 - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

2. Instructions for Certification - Lower Tier Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that

which is normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--
Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING
(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XIII. CONTROL OF MATERIALS

Domestic Materials:

Cement used on this project may be foreign or domestic. Certificates of Compliance and Certificates of Analysis for cement shall additionally identify whether the cement is foreign or domestic.

All manufacturing processes to produce steel products used on this project shall occur in the United States. Raw materials used in manufacturing the steel products may be foreign or domestic. Steel not meeting these requirements may be used in products on this project provided that the invoiced cost to the contractor for such steel products incorporated into the work does not exceed either one-tenth of one percent of the total (final) contract cost or \$2,500, whichever is greater.

Convict-produced materials may not be used unless the materials were produced prior to July 1, 1991 at a prison facility specifically producing convict-made materials for Federal-aid construction projects.

Any process which involves the application of a coating to iron or steel shall occur in the United States. These processes include epoxy coating, galvanizing, painting, or any other coating which protects or enhances the value of covered material.

The contractor shall furnish the Engineer with Certificates of Compliance which state that steel products utilized on the project meet the requirements specified. The Certificates of Compliance shall also certify that all manufacturing processes to produce steel products, and any application of a coating to iron or steel, occurred in the United States.

XIV. DISADVANTAGED BUSINESS ENTERPRISES

Policy:

The Arizona Department of Transportation has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Arizona Department of Transportation has received Federal financial assistance from the Department of Transportation and as a condition of receiving this

assistance, the Arizona Department of Transportation has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Arizona Department of Transportation to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the policy of the Department:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program.

Assurances of Non-Discrimination:

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the state deems appropriate.

Race Neutral DBE Participation:

The Arizona Department of Transportation has an annual DBE goal of 10.5 percent. For this project, the Arizona Department of Transportation has established the following goal for the utilization of DBEs.

Disadvantaged Business Enterprises (DBEs) shall participate in not less than 0% percent of the contract dollar amount.

The Department is using a race neutral program to work towards meeting the annual goal. Race neutral participation occurs where (1) a firm's DBE status is not considered when awarding subcontracts, or (2) a DBE is the prime contractor.

The Department has a DBE Supportive Services Program that works with both DBEs and prime contractors to facilitate DBE participation. Ralph "Gonz" Gonzales is the manager of the program. He can be reached at (602) 712-7761 or rgonzales@azdot.gov.

Reporting:

The Department is required to collect data on DBE participation to report to FHWA. Therefore, accurate reporting is needed to track DBE participation. The contractor shall submit a report on a monthly basis indicating the amounts earned by and paid to all DBEs working on the project.

Definitions:

(A) Disadvantaged Business Enterprise DBE: a for-profit small business concern which meets both of the following requirements:

- (1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(B) Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) "Women;"
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

(C) **Joint Venture:** an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction program. All bidders should contact the Civil Rights Office at the address shown below for assistance in their efforts to use DBEs in the construction program of the Department:

Arizona Department of Transportation
Civil Rights Office
1135 N. 22nd Avenue (second floor), Mail Drop 154A
Phoenix, AZ 85009
Phone (602) 712-7761
FAX (602) 712-8429

Applicability:

The provisions are applicable to all bidders including DBE bidders. As a prime contractor, a DBE shall perform a significant portion of the contract work with its own work force in accordance with normal industry practices.

Certification:

Certification as a DBE shall be predicated on:

- (1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".
- (2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.

- (3) The submission of any additional information which the Department may require to determine the firm's eligibility to participate in the DBE program.

Applications for certification may be filed with the Department at any time.

Applications for certification are available at the Department's Civil Rights Office, 1135 N. 22nd Avenue (second floor), mail drop 154A, Phoenix, Arizona 85009, phone (602) 712-7761, or from the internet at www.azdbe.org.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

Arizona is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at www.azdbe.org. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The contractor bears the responsibility to determine whether the DBE possesses the proper contractor's license(s) to perform the work. If a DBE cannot complete its work due to failure to obtain or maintain its licensing, the contractor bears the responsibility to immediately replace the DBE with another DBE and notify the Department.

The Department's certification is not a representation of qualifications and/or abilities. The contractor bears all risks that the DBE may not be able to perform its work for any reason.

General:

Each contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts. Each contractor shall also designate a full time employee who shall be responsible for the administration of the contractor's DBE program.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

DBE Participation:

A DBE may participate as a prime contractor, subcontractor, joint venture partner with either a prime contractor or a subcontractor, or as a vendor of materials or supplies. A DBE joint venture partner shall be responsible for a clearly defined portion of the work to be performed, in addition to meeting the requirements for ownership and control.

The contractor may not credit second-tier subcontracts issued to DBEs by non-DBE subcontractors.

Crediting DBE Participation:

General:

Once a firm is determined to be an eligible DBE in accordance with 49 CFR Part 26, only the value of the work actually performed by the DBE can be credited toward DBE participation. Credit is given only after the DBE has been paid for the work performed.

The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

When a DBE performs as a partner in a joint venture, only that portion of the total dollar value of the contract which is clearly and distinctly performed by the DBE's own forces can be credited.

The contractor may not credit second-tier subcontracts issued to DBEs by non-DBE subcontractors.

A prime contractor may credit the entire amount of that portion of a construction contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count towards DBE participation.

A prime contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

Police Officers:

DBE credit will not be permitted for procuring DPS officers. For projects on which officers from other agencies are supplied, DBE credit will be given only for the broker fees charged, and will not include amounts paid to the officers.

Commercially Useful Function:

A prime contractor can credit expenditures to a DBE subcontractor only if the DBE performs a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of a contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. Decisions on commercially useful function matters are subject to review by FHWA, but are not administratively appealable to U.S. DOT.

Trucking:

The Department will use the following factors in determining whether a DBE trucking company is performing a commercially useful function: the DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract on every day that credit is to be given for trucking.

The contractor will receive credit for the total value of transportation services provided by the DBE using trucks it owns, insures and operates, and using drivers it employs.

The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services.

The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees results in credit only for the fee or commission paid to the DBE as a result of the lease agreement.

Example: DBE Firm X uses two of its own trucks on contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE firm Z. DBE credit would only be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

Materials and Supplies:

The Department will credit expenditures with DBEs for material and supplies as follows. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies is credited. A manufacturer is defined as a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract, and of the general character described by the specifications.

If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies is credited. A DBE regular dealer is defined as a firm that owns, operates, or maintains a store or warehouse or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A firm may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, stone or asphalt without owning, operating, or maintaining a place of business, as provided above, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement, and not on an ad-hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph and the paragraph above.

With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the Department will credit the entire amount of the fees or commissions charged by the DBE for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves may not be counted toward the DBE goal.

DBE credit for supplying paving grade asphalt and other asphalt products will only be permitted for reasonable hauling costs, and only if the DBE is owner or lessee of the equipment and trucks. Leases for trucks must be long term (extending for a fixed time period and not related to time for contract performance) and must include all attendant responsibilities such as insurance, titling, hazardous waste requirements, and payment of drivers.

8. **EXHIBITS**

The parties agree that all references to this Contract include all exhibits designated in and attached to this Contract, such exhibits being incorporated into and made an integral part of this Contract for all purposes.

- 8.1. WAGE DETERMINATION
- 8.2. CONTRACTOR'S MONTHLY STATEMENT OF DBE UTILIZATION
- 8.3. CHECK SHEET
- 8.4. COMPETITIVE SEALED BID
- 8.5. BIDDERS PROJECT REFERENCES
- 8.6. LIST OF SUBCONTRACTORS
- 8.7. COMPETITIVE SEALED BID CERTIFICATION FORM
- 8.8. CERTIFICATION BY THE CONTRACTOR AUTHORIZING EMPLOYEES TO SIGN BINDING AGREEMENT
- 8.9. STATUTORY PERFORMANCE BOND PURSUANT TO A.R.S. §34-222
- 8.10. STATUTORY PAYMENT BOND PURSUANT TO §34-222
- 8.11. CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS
- 8.12. PROMPT PAYMENT REQUIREMENTS
- 8.13. CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS
- 8.14. AFFIDAVIT BY THE CONTRACTOR CERTIFYING NO COLLUSION IN BIDDING
- 8.15. AFFIDAVIT BY THE CONTRACTOR CERTIFYING NO LOBBYING
- 8.16. DISADVANTAGED BUSINESS ENTERPRISES ASSURANCES AFFIDAVIT
- 8.17. DISADVANTAGED BUSINESS ENTERPRISE INTENDED PARTICIPATION SUMMARY AFFIDAVIT
- 8.18. CONFIRMATION OF PARTICIPATION BY DBE

[SIGNATURE PAGE TO FOLLOW]

SIGNATURE PAGE

IN WITNESS WHEREOF, this Contract has been duly executed by the parties hereinabove named, on the date and year first herein written.

CITY OF TEMPE, an Arizona municipal corporation

By: _____
Name

Its: _____
Title

ATTEST:

City Clerk

Recommended By:

Deputy PW Manager/City Engineer

APPROVED AS TO FORM:

City Attorney

Contractor warrants that the person who is signing this Contract on behalf of Contractor is authorized to do so and to execute all other documents necessary to carry out the terms of this Contract.

CONTRACTOR:

Company Name

By: _____
Name

Its: _____
Title

City Transaction Privilege
License (Sales Tax) Permit No.

(Corporate Seal)

Certified to be a true and exact copy

Karen M. Fillmore, Records Specialist

Witness [IF CONTRACTOR IS INDIVIDUAL]

8.1 WAGE DETERMINATION

GENERAL DECISION: AZ20080013 08/07/2009 AZ13

Date: August 7, 2009

General Decision Number: AZ20080013 08/07/2009

State: Arizona

Construction Type: Highway

Counties: Coconino, Maricopa, Mohave, Pima, Pinal, Yavapai and Yuma Counties in Arizona.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	05/15/2009
1	05/22/2009
2	06/26/2009
3	07/03/2009
4	08/07/2009

CARP0408-005 07/01/2009

	Rates	Fringes
CARPENTER (Including Cement Form Work).....	\$ 23.58	7.24

ENGI0428-001 06/01/2009

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
Group 1.....	\$ 20.89	9.31
Group 2.....	\$ 24.16	9.31
Group 3.....	\$ 25.24	9.31
Group 4.....	\$ 26.27	9.31

POWER EQUIPMENT OPERATORS CLASSIFICATIONS:

GROUP 1: A-frame boom truck, air compressor, Beltcrete, boring bridge and texture, brakeman, concrete mixer (skip type), conductor, conveyor, cross timing and pipe float, curing machine, dinky (under 20 tons), elevator hoist (Husky and similar), firemen, forklift, generator (all), handler, highline cableway signalman, hydrographic mulcher, joint inserter, jumbo finishing machine, Kolman belt loader, machine conveyor, multiple power concrete saw, pavement breaker, power grizzly, pressure grout machine, pump, self-propelled chip spreading machine, slurry seal machine (Moto paver driver), small self-propelled compactor (with blade-backfill, ditch operation), straw blower, tractor (wheel type), tripper, tugger (single drum), welding machine, winch truck

GROUP 2:

ALL COUNTIES INCLUDING MARICOPA: Aggregate Plant, Asphalt plant Mixer, Bee Gee, Boring Machine, Concrete Pump, Concrete Mechanical Tamping-Spreading Finishing Machine,

Concrete Batch Plant, Concrete Mixer (paving & mobile), Elevating Grader (except as otherwise classified), Field Equipment Serviceman, Locomotive Engineer (including Dinky 20 tons & over), Moto-Paver, Oiler-Driver, Operating Engineer Rigger, Power Jumbo Form Setter, Road Oil Mixing Machine, Self-Propelled Compactor (with blade-grade operation), Slip Form (power driven lifting device for concrete forms), Soil Cement Road Mixing Machine, Pipe-Wrapping & Cleaning Machine (stationary or traveling), Surface Heater & Planer, Trenching Machine, Tugger (2 or more drums).

MARICOPA COUNTY ONLY: Backhoe < 1 cu yd, Motor Grader (rough), Scraper (pneumatic tired), Roller (all types asphalt), Screed, Skip Loader (all types 3<6 cu yd), Tractor (dozer, pusher-all).

GROUP 3:

ALL COUNTIES INCLUDING MARICOPA: Auto Grade Machine, Barge, Boring Machine (including Mole, Badger & similar type directional/horizontal), Crane (crawler & pneumatic 15>100 tons), Crawler type Tractor with boom attachment & slope bar, Derrick, Gradall, Heavy Duty Mechanic-Welder, Helicopter Hoist or Pilot, Highline Cableway, Mechanical Hoist, Mucking Machine, Overhead Crane, Pile Driver Engineer (portable, stationary or skid), Power Driven Ditch Lining or Ditch Trimming Machine, Remote Control Earth Moving Machine, Slip Form Paving Machine (including Gunnert, Zimmerman & similar types), Tower Crane or similar type.

MARICOPA COUNTY ONLY: Backhoe<10 cu yd, Clamshell < 10 cu yd, Concrete Pump (truck mounted with boom only), Dragline <10 cu yd, Grade Checker, Motor Grader (finish-any type power blade), Shovel < 10 cu yd.

GROUP 4: Backhoe 10 cu yd and over, Clamshell 10 cu yd and over, Crane (pneumatic or crawler 100 tons & over), Dragline 10 cu yd and over, Shovel 10 cu yd and over.

All Operators, Oilers, and Motor Crane Drivers on equipment with Booms, except concrete pumping truck booms, including Jibs, shall receive \$0.01 per hour per foot over 80 ft in addition to regular rate of pay

Premium pay for performing hazardous waste removal \$0.50 per hour over base rate.

* IRON0075-004 08/01/2009

COCONINO, MARICOPA, MOHAVE, YAVAPAI & YUMA COUNTIES

	Rates	Fringes
Ironworker, Rebar		
Zone 1.....	\$ 26.52	17.59
Zone 1: 0 to 50 miles from City Hall in Phoenix or Tucson		
Zone 2: 050 to 100 miles - Add \$4.00		
Zone 3: 100 to 150 miles - Add \$5.00		

Zone 4: 150 miles & over - Add \$6.50

LABO0383-002 06/01/2009

	Rates	Fringes
Laborers:		
Group 1.....	\$ 16.72	4.35
Group 2.....	\$ 17.70	4.35
Group 3.....	\$ 18.46	4.35
Group 4.....	\$ 19.50	4.35
Group 5.....	\$ 20.44	4.35

LABORERS CLASSIFICATIONS:

GROUP 1: All Counties: Chipper, Rip Rap Stoneman. Pinal County Only: General/Cleanup Laborer. Maricopa County Only: Flagger.

GROUP 2: Asphalt Laborer (Shoveling-excluding Asphalt Raker or Ironer), Bander, Cement Mason Tender, Concrete Mucker, Cutting Torch Operator, Fine Grader, Guinea Chaser, Power Type Concrete Buggy

GROUP 3: Chain Saw, Concrete Small Tools, Concrete Vibrating Machine, Cribber & Shorer (except tunnel), Hydraulic Jacks and similar tools, Operator and Tender of Pneumatic and Electric Tools (not herein separately classified), Pipe Caulker and Back-Up Man-Pipeline, Pipe Wrapper, Pneumatic Gopher, Pre-Cast Manhole Erector, Rigger and Signal Man-Pipeline

GROUP 4: Air and Water Washout Nozzleman; Bio-Filter, Pressman, Installer, Operator; Scaffold Laborer; Chuck Tender; Concrete Cutting Torch; Guniting; Hand-Guided Trencher; Jackhammer and/or Pavement Breaker; Scaler (using boson's chair or safety belt); Tamper (mechanical all types).

GROUP 5: AC Dumpman, Asbestos Abatement, Asphalt Raker II, Drill Doctor/Air Tool Repairman, Hazardous Waste Removal, Lead Abatement, Lead Pipeman, Process Piping Installer, Scaler (Driller), Pest Technician/Weed Control, Scissor Lift, Hydro Mobile Scaffold Builder.

PAIN0086-001 04/01/2009

	Rates	Fringes
PAINTER		
PAINTER (Yavapai County only), SAND BLASTER/WATER BLASTER (all Counties).....	\$ 19.35	4.70

ZONE PAY: More than 100 miles from Old Phoenix Courthouse \$3.50 additional per hour.

SUAZ2009-001 04/20/2009

	Rates	Fringes
--	-------	---------

CEMENT MASON.....	\$ 19.28	3.99
ELECTRICIAN.....	\$ 22.84	6.48
IRONWORKER (Rebar)		
Pima & Pinal Counties.....	\$ 21.73	12.07
LABORER		
Asphalt Raker.....	\$ 15.49	3.49
Compaction Tool Operator....	\$ 14.59	2.91
Concrete Worker.....	\$ 13.55	3.20
Concrete/Asphalt Saw.....	\$ 13.95	2.58
Driller-Core, diamond, wagon, air track.....	\$ 16.94	3.12
Dumpman Spotter.....	\$ 14.99	3.16
Fence Builder.....	\$ 13.28	2.99
Flagger		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 12.35	1.59
Formsetter.....	\$ 16.09	3.97
General/Cleanup Laborer		
Coconino, Maricopa, Mohave, Pima, Yavapai & Yuma.....	\$ 14.54	3.49
Grade Setter (Pipeline).....	\$ 17.83	5.45
Guard Rail Installer.....	\$ 13.28	2.99
Landscape Laborer.....	\$ 11.39	
Landscape Sprinkler Installer.....	\$ 15.27	
Pipelayer.....	\$ 14.81	2.96
Powderman, Hydrasonic.....	\$ 16.39	2.58
PAINTER		
Coconino, Maricopa, Mohave, Pima, Pinal & Yuma..	\$ 15.57	3.92
POWER EQUIPMENT OPERATOR		
Asphalt Laydown Machine.....	\$ 21.19	6.05
Backhoe < 1 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 17.37	3.85
Backhoe < 10 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.72	3.59
Clamshell < 10 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.72	3.59
Concrete Pump (Truck Mounted with boom only)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 19.92	7.10
Crane (under 15 tons).....	\$ 21.35	7.36
Dragline (up to 10 cu yd)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.72	3.59
Drilling Machine (including Water Wells).....	\$ 20.58	5.65
Grade Checker		
Coconino, Mohave, Pima,		

Pinal, Yavapai & Yuma.....	\$ 16.04	3.68
Hydrographic Seeder.....	\$ 15.88	7.67
Mass Excavator.....	\$ 20.97	4.28
Milling Machine/Rotomill....	\$ 21.42	7.45
Motor Grader (Finish-any type power blade)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 21.92	4.66
Motor Grader (Rough)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 20.07	4.13
Oiler.....	\$ 18.15	8.24
Power Sweeper.....	\$ 16.76	4.44
Roller (all types Asphalt)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.27	3.99
Roller (excluding asphalt)..<	\$ 15.65	3.32
Scraper (pneumatic tired)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 17.69	3.45
Screed		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 17.54	3.72
Shovel < 10 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.72	3.59
Skip Loader (all types <3 cu yd).....	\$ 18.28	5.30
Skip Loader (all types 3 < 6 cu yd)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.64	4.86
Skip Loader (all types 6 < 10 cu yd).....	\$ 20.15	4.52
Tractor (dozer, pusher - all)		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 17.26	2.65

TRUCK DRIVER

2 or 3 Axle Dump or Flatrack.....	\$ 16.27	3.30
5 Axle Dump or Flatrack.....	\$ 13.97	2.89
6 Axle Dump or Flatrack (< 16 cu yd).....	\$ 17.79	6.42
Belly Dump.....	\$ 14.67	
Oil Tanker Bootman.....	\$ 22.03	
Self-Propelled Street Sweeper.....	\$ 13.11	5.48
Water Truck 2500 < 3900 gallons.....	\$ 18.14	4.55
Water Truck 3900 gallons and over.....	\$ 15.92	3.33
Water Truck under 2500 gallons.....	\$ 15.94	4.16

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and

reconsideration from
the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR
Part 7).

Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the
interested
party's position and by any information (wage payment data,
project
description, area practice material, etc.) that the requestor
considers
relevant to the issue.

3.) If the decision of the Administrator is not favorable, an
interested
party may appeal directly to the Administrative Review Board
(formerly the
Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

8.3.
CHECK SHEET

This check sheet contains a listing of items to be included in the sealed bid by the Contractor:

		Included	
8.4.	Competitive Sealed BidB1 to B-4	<input type="checkbox"/>	
8.5.	Bidders Project References PR-1	<input type="checkbox"/>	
8.6.	List of Subcontractors SB-1	<input type="checkbox"/>	Separate Envelope
8.7.	Competitive Sealed Bid Certification Form CF-1	<input type="checkbox"/>	
8.8	Certification by the Contractor Authorizing Employees To Sign Binding Agreements.....BA-1	<input type="checkbox"/>	
8.13.	Certification with Regard to the Performance of Previous Contracts or Subcontracts Subject to the Equal Opportunity Clause and the Filing of Required Reports CP-1	<input type="checkbox"/>	
8.14.	Affidavit by Contractor Certifying No Collusion in Bidding for ContractNC-1	<input type="checkbox"/>	
8.15.	Affidavit by Contractor Certifying No Lobbying.....NL-1	<input type="checkbox"/>	
8.16.	Disadvantaged Business Enterprise Assurances Affidavit DBE-4	<input type="checkbox"/>	
8.17.	Disadvantaged Business Enterprise Intended Participation Summary Affidavit..... DBE-5	<input type="checkbox"/>	
	Bid Bond (as per Instruction to Bidders, 4.4 Bid Security)28	<input type="checkbox"/>	
	Safety Information (as per Instruction to Bidders, 4.7 Bidding Phase Requirements).....28	<input type="checkbox"/>	Separate Envelope

8.4.

COMPETITIVE SEALED BID

Place: Tempe, Arizona

Date: 1/12/10

Mayor and City Council
City of Tempe
Tempe, Arizona 85281

In compliance with your invitation for bids and all conditions of the Contract, the CPC Construction, Inc., a corporation or limited liability corporation organized under the laws of the State of Arizona, a partnership consisting of _____ or individual trading as _____, of the City of _____, and the County of _____, hereby proposes and agrees to furnish any and all plant, materials, labor, construction equipment, service and transportation (all applicable taxes included) of the **UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS, PROJECT NO. 6001921, ADOT PROJECT NO. CM-TMP-0(028)A ADOT TRACS NO. 0000 MA TMP SS612 01C** and to install the material therein for City in a good and workmanlike and substantial manner and to the satisfaction of City, or their properly authorized agents and strictly pursuant to and in conformity with the Contract and other documents that may be made by City or their properly authorized agents, as provided herein, at the following prices:

The undersigned hereby declares that Contractor has visited the site and has carefully examined the Contract related to the work covered by the above bid.



City of Tempe

Project No. 6001921
University Drive Pedestrian Improvements
CPC CONSTRUCTION

Base Bid

Item No.	Item Name	Quantity	Unit	Unit Cost	Total Cost
1	Sawcut & Remove Concrete Curb & Gutter	474	LF	\$5.20	\$2,464.80
2	Sawcut & Remove Concrete Sidewalk & Sidewalk Ramps	3051	SF	\$1.10	\$3,356.10
3	Remove Existing Trees & Plants	1	LS	\$500.00	\$500.00
4	Sawcut & Remove Concrete Driveway	3638	SF	\$1.45	\$5,275.10
5	Sawcut & Remove Existing Valley Gutter, Curb & Apron	2362	SF	\$1.45	\$3,424.90
6	Sawcut & Remove Asphalt Pavement	347	SY	\$14.65	\$5,083.55
7	Sawcut & Remove Existing Single Curb	62	LF	\$4.75	\$294.50
8	Subgrade Preparation	204	SY	\$9.00	\$1,836.00
9	Asphalt Concrete Pavement Replacement (Tempe Std. Det. T-450)	204	SY	\$60.00	\$12,240.00
10	Concrete Curb & Gutter (MAG Std. Det. 220, Type A)	479	LF	\$10.50	\$5,029.50
11	Single Curb Termination (MAG Std. Det. 222)	50	LF	\$10.50	\$525.00
12	Concrete Apron, Valley Gutter & Curb (MAG Std. Det. 240)	2338	SF	\$4.75	\$11,105.50
13	Concrete Sidewalk, (MAG Std. Det. 230)	8953	SF	\$2.25	\$20,144.25
14	Sidewalk Ramp (Tempe Std. Det. T-324)	10	EA	\$250.00	\$2,500.00
15	Sidewalk Ramp (Tempe Std. Det. T-326)	2	EA	\$200.00	\$400.00
16	Sidewalk Ramp (Tempe Std. Det. T-348, Type B)	2	EA	\$150.00	\$300.00
17	Sidewalk Ramp (Tempe Std. Det. T-348, Type D)	4	EA	\$150.00	\$600.00
18	Concrete Driveway Entrance, 9-inch thick, (Std. Det. T-319)	620	SF	\$4.10	\$2,542.00

19	Concrete Driveway Entrance, 9-inch thick, (Tempe Std. Det. T-320)	6142 SF	\$4.10	\$25,182.20
20	Remove Exist Street Light & Pole	3 EA	\$175.00	\$525.00
21	Adjust Valve to Grade (Tempe Std. Det. T-445)	10 EA	\$150.00	\$1,500.00
22	Remove & Relocate Sign	8 EA	\$250.00	\$2,000.00
23	Relocate Irrigation Valve	2 EA	\$200.00	\$400.00
24	Deomposed Granite	1 LS	\$750.00	\$750.00
25	Driveway Retrofit Per Detail "A"	1240 SF	\$4.10	\$5,084.00
26	Remove Existing Hydrant and Install New Including New Pipe & Fittings (MAG std. Det. 360)	2 EA	\$1,500.00	\$3,000.00
27	Detectable Warning (Tempe Std. Det. T-329)	160 SF	\$15.00	\$2,400.00
28	Traffic Control	1 LS	\$6,000.00	\$6,000.00
29	Miscellaneous Removals and Other Work	1 LS	\$5,000.00	\$5,000.00
30	Mobilization	1 LS	\$1.00	\$1.00
31	Arizona Pollutant Discharge Elimination System (AZPDES)	1 LS	\$2,000.00	\$2,000.00
32	Uniformed Off Duty Law Enforcement Officers Allowance	1 LS	\$7,500.00	\$7,500.00
33	Permit Fee Allowance	1 LS	\$1,500.00	\$1,500.00
34	Street Light & J-Box (Tempe Std. Det. T-650 & T-651)	3 EA	\$2,850.00	\$8,550.00
35	trenching for Street Light Circuit (1 1/2 inch PVC Conduit with Mule Tape)	630 LF	\$10.00	\$6,300.00
36	Remove Fence	125 LF	\$1.00	\$125.00
			Total Base Bid:	\$155,438.40

The undersigned understands that City of Tempe reserves the right to award a Contract to the lowest and/or best responsible bidder, to reject all bids, and to waive any informalities in any bid deemed to be in the best interests of the City.

Performance shall not start until after receiving the Notice to Proceed, and the work will be completed within one hundred twenty (120) consecutive calendar days after receiving the Notice to Proceed.

The undersigned hereby acknowledges receipt of the following addenda: Addendum #1 issued 1/6/10, Addendum #2 issued 1/6/10
_____ and Contractor's bid has been adjusted to reflect any changes.

Respectfully submitted,

By: _____
(Signature)

Printed Name

Its: _____
Title

080069-A
Contractor's License No.

86-0461504
Federal I.D. No./Social Security No.

[Corporate Seal]

For: CPC Construction, Inc.
Company Name

Address: 1534 W. Scott Ave.
Gilbert, AZ 85233

Phone: 480-839-6300

Fax: 480-820-9958

Certified to be a true and exact copy

Karen M. Fillmore
Records Specialist

8.7.
CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS

CERTIFICATION FORM

Proposer certifies that it is a: _____ proprietorship; _____ partnership; corporation.

Arizona Sales Tax No. 07-3A5747-H

Use Tax No. for Out-of-State Supplier _____

City of Tempe Sales Tax No. _____

Taxpayer's Federal Identification No. 86-0461534

Proposer certifies that Proposer has read, understands, and will fully and faithfully comply with this Request for Proposal, its attachments and any referenced documents. Proposer also certifies that the prices offered were independently developed without consultation with any of the other Proposers or potential Proposers.

Company's Legal Name: CPC CONSTRUCTION, INC.

Address: 153A W. SCOTT AVE

City, State and Zip Code: GILBERT AZ 85233

Telephone Number: 480-839-6300

Company's Fax Number: 480-820-9958

Company's Toll Free Number: N/A

E-Mail Address: tealby@cpcconstruction.com

Signature: [Signature]

Printed Name and Title: TRAY COLBY, PRESIDENT

MAILING ADDRESSES

Purchase Order Address: (If different from above)

Name: SAME

Address: _____

City, State and Zip Code: _____

Payment Address: (If different from above)

Name: SAME

Address: _____

City, State and Zip Code: _____

8.8.

**CERTIFICATION BY THE CONTRACTOR AUTHORIZING
EMPLOYEES TO SIGN BINDING AGREEMENTS**

UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS
PROJECT NO. 6001921
ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C

The following employees in our organization are duly authorized to sign binding agreements for and on behalf of the Owner, Partner, or Corporation including, but not limited to, Pay Requests, Change Orders, Required Certifications, etc.:

Type or Print Name

TROY COLBY

Signature

Troy Colby

Contractor Name

CPC CONSTRUCTION, INC.

Signed By

Troy Colby
(Owner, Partner, or Principal of the Corporation)

Printed Name

TROY COLBY

Title

PRESIDENT

Date

1/12/10

STATUTORY PERFORMANCE BOND PURSUANT TO A.R.S. § 34-222

(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

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

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the / day of /, 2010, to complete Project No. 6001921 which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extension thereof, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; then the above obligation shall be void, otherwise to remain in full force and effect.

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

The prevailing party or any party which recovers judgment on this bond shall be entitled to such reasonable attorney's fees as may be fixed by the Court or a judge thereof.

Witness our hands this ____ day of _____, 2010.

PRINCIPAL SEAL

By: _____

*SURETY SEAL

By: _____

AGENCY ADDRESS

*Surety hereby acknowledges it is licensed to do business in the State of Arizona.

8.10.

STATUTORY PAYMENT BOND PURSUANT TO A.R.S. § 34-222

(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

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

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the / day of /, 2010, to complete Project No. 6001921 which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said Principal shall promptly pay all moneys due to all persons supplying labor of materials to them or their subcontractors in the prosecution of the work provided for in said Contract, then this obligation shall be void, otherwise to remain in full force and effect;

Provided, however, that this bond having been required of the said Principal in order to comply with the provision of Title 34, Chapter 2, Article 2, of the Arizona Revised Statutes, all rights and remedies on this bond shall inure solely to such persons and shall be determined in accordance with the provisions, conditions and limitations of said Title, Chapter and Article, to the same extent as if it were copied at length herein.

The prevailing party or any party which recovers judgment on this bond shall be entitled to such reasonable attorney's fees as may be fixed by the Court or a judge thereof.

Witness our hands this _____ day of _____, 2010.

PRINCIPAL SEAL

By: _____

*SURETY SEAL

By: _____

AGENCY ADDRESS

*Surety hereby acknowledges it is licensed to do business in the State of Arizona.

8.11.
CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS

CONTRACTOR'S AFFIDAVIT
REGARDING
SETTLEMENT OF CLAIMS

_____, Arizona

Date _____

UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS
PROJECT NO. 6001291
ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C

To the City of Tempe, Arizona

To Whom It May Concern:

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project, whether by subcontractor or claimant in person, have been duly discharged or will be discharged after receipt of the final payment from the City of Tempe ("City") for the above project.

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

Signed and dated at _____, this _____ day of _____, 2010.

Contractor

By: _____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to me before this _____ day of _____, 2010.

Notary Public

[Notary Seal]

8.12.

PROMPT PAYMENT REQUIREMENTS

**CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS**

City adheres to the prompt payment provisions of A.R.S. §34-221.

1. Contractor shall pay to its sub-contractors or material suppliers and each Sub-contractor shall pay to its Sub-contractors or material supplier, within seven (7) days of receipt of each progress payment, the amounts attributable to the Contractor, Sub-contractors or material supplier for work performed or materials supplied. In addition, any reduction of retainage to Contractor must also result in a like reduction to sub-contractors for their work successfully completed within fourteen (14) calendar days of the reduction of the retainage to the Contractor. No contract between Contractor and its Contractors, Sub-contractors and material suppliers may materially alter the rights of any Contractor, Sub-Contractor or material supplier to receive prompt and timely payment as provided herein. Any diversion by Contractor, or any Sub-contractor, of payments received for work performed on a contract, or failure to reasonably account for the application or use of such payments, constitutes sufficient grounds for City to take any one or more of the following actions: (1) withhold future payments including retainage until proper disbursement has been made; (2) refusal of all future bids or offers from Contractor for a period not to exceed one year; or, 3) cancellation of the contract.

2. Alternate Dispute Resolution. If entitlement to the payment is in dispute, the parties to the dispute shall submit the matter to either; a) binding arbitration; b) to some other form of binding alternative dispute resolution (ADR); or, c) a City of Tempe facilitated mediation process. The ADR process shall commence within a reasonable period of time, not to exceed fourteen (14) calendar days of receipt of a Notice to Proceed to an ADR process issued by City once an ADR determination has been made on any disputed claim, the determination shall be implemented by the disputing parties within seven (7) calendar days of that determination.

**CERTIFICATION WITH REGARD TO THE PERFORMANCE OF
PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE
EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS
APRIL, 1969**

The bidder ✓, proposed subcontractor _____, hereby certifies that he has ✓, has not _____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he has ✓, has not _____, filed with the Joint Reporting committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

CFC CONSTRUCTION, INC.
(Company)
By: [Signature]
PRESIDENT
(Title)

Date: 1/12/10

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7b (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5 (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Information concerning Standard Form 100 (EEO-1) is available from:

Joint Reporting Committee
P.O. Box 19100
Washington, D.C. 20036-9100

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

8.14.
**AFFIDAVIT BY CONTRACTOR
CERTIFYING THAT THERE WAS NO
COLLUSION IN BIDDING OF CONTRACT**

STATE OF:)
)
)
COUNTY OF:)

_____ (Name of Individual)

Being first duly sworn upon oath deposes and says:

That he is _____ (Title)

of _____ (Name of Company, Firm, or Corporation)

THAT, PURSUANT TO SUBSECTION 112© OF TITLE 23, UNITED STATES CODE AND TITLE 44, CHAPTER 10, ARTICLE 1, AND TITLE 34, CHAPTER 2, ARTICLE 4 OF THE ARIZONA REVISED STATUTES, HE CERTIFIES THAT NEIGHT HE NOR ANYONE ASSOCIATED WITH THE COMPANY, FIRM, OR CORPORATION MENTIONED ABOVE HAS, EITHER DIRECTLY OR INDIRECTLY, ENTERED INTO AN AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FULL COMPETITIVE BIDDING IN CONNECTION WITH PROJECT:

**UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS
PROJECT NO. 6001921
ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C**

Subscribed and sworn to before me this

_____ day of _____, 2009

_____ Signature

My commission expires _____

_____ Notary Public

If by a Corporation:
(Seal)



**AFFIDAVIT DEMONSTRATING LAWFUL
PRESENCE IN THE UNITED STATES**

ARS §§1-501 and 502 require individual persons to complete this form to apply to the City for a local public benefit (defined as a grant, contract or loan). You must demonstrate through the presentation of one of the following documents that you are lawfully present in the United States.

**LAWFUL PRESENCE IN THE UNITED STATES CAN BE DEMONSTRATED BY
PRESENTATION OF ONE (1) OF THE DOCUMENTS LISTED BELOW.**

Please present the document indicated below to the City. If mailing the document, attach a copy of the document to this Affidavit. (If the document may not be copied, present the document in person to the City for review and signing of the affidavit.)

- 1. An Arizona driver license issued after 1996.
Print first 4 numbers/letters from license: 2060
- 2. An Arizona non-operating identification License.
Print first 4 numbers/letters: _____
- 3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
Year of birth: _____: Place of birth: _____
- 4. A United States Certificate of Birth abroad.
Year of birth: _____: Place of birth: _____
- 5. A United States passport.
Print first 4 numbers/letters on Passport: _____
- 6. A foreign passport with a United States Visa.
Print first 4 numbers/letters on Passport _____
Print first 4 numbers/letters on Visa _____
- 7. An I-94 form with a photograph.
Print first 4 numbers on I-94: _____
- 8. A United States Citizenship and Immigration Services Employment Authorization Document (EAD).
Print first 4 numbers/letters on EAD: _____
- 9. Refugee travel document.
Date of Issuance: _____ Refugee Country: _____
- 10. A United States Certificate of Naturalization.
Print first 4 digits of CIS Reg. No.: _____
- 11. A United States Certificate of Citizenship.
Date of Issuance: _____ Place of Issuance: _____
- 12. A tribal Certificate of Indian Blood.
Date of Issuance: _____ Name of Tribe: _____
- 13. A tribal or Bureau of Indian Affairs Affidavit of Birth.
Year of Birth: _____ Place of Birth: _____

I DO SWEAR OR AFFIRM UNDER PENALTY OF LAW THAT I AM LAWFULLY PRESENT IN THE UNITED STATES AND THAT THE DOCUMENT I PRESENTED ABOVE AS VERIFICATION IS TRUE.

Troy Carzai
Signature

Troy Carzai
Print Name

Date: 1/12/10

CPC CONSTRUCTION, INC
Business/Company Address (if applicable)

1534 W. SCOTT AVE. GILBERT AZ
Address

GILBERT AZ 85233
City, State, Zip Code

OFFICE USE ONLY: EMPLOYEE NAME: _____
EMPLOYEE NUMBER: _____

ALL VIOLATIONS OF FEDERAL IMMIGRATION LAW SHALL BE REPORTED TO 1-866-347-2423

8.16.
AFFIDAVIT

DISADVANTAGED BUSINESS ENTERPRISE
ASSURANCES

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

University Drive Pedestrian Improvements
Project No. 6001921
ADOT Project No. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C

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

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

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

In accordance with the Special Provisions, the bidder shall specify its DBE participation on the "DBE Intended Participation Affidavit," or provide documentation of its good faith efforts by 4:00 p.m. on the fifth (5th) working day following the bid opening. The required affidavit shall be obtained by the apparent low bidder from the City of Tempe Engineering Division, 31 E. 5th St. Garden Level, Tempe, AZ 85281, following the opening of bids.

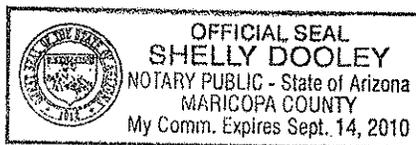
CPC Construction, Inc.
Name of Firm
[Signature]
Signature
President
Title

Subscribed and sworn to before me this

11 day of January, 20010

My commission expires 9/14/10

Shelly Dooley
Notary Public



8.17.

DISADVANTAGED BUSINESS ENTERPRISE
INTENDED PARTICIPATION SUMMARY
AFFIDAVIT

ADOT PROJECT NO: CW-TWR-0(028)A

PRIME CONTRACTOR CFC Construction, Inc. CITY OF TEMPE PROJECT NO. _____

DBE FIRM	PRINCIPAL OFFICIAL	ADDRESS/PHONE NO.	TYPE OF WORK	AGREED CONTRACT PRICE
NONE				

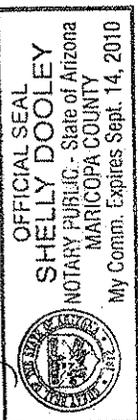
TOTAL DBE PROPOSED SUBCONTRACTING \$ 0

THE DBE PROPOSED SUBCONTRACTING IS 0 % OF THE TOTAL CONTRACT AMOUNT

The undersigned will enter into a formal agreement with the DBE contractors/suppliers listed herein conditioned upon the execution of a contract with the City of Tempe.

Signed By Shelly Dooley Title President Date 1/12/10

Subscribed and sworn to before me this 11 day of January, 20010. My commission expires on 9/14/10



Notary Public Shelly Dooley

CONFIRMATION OF PARTICIPATION BY DBE

PROJECT NAME UNIVERSITY DRIVE PEDESTRIAN IMPROVEMENTS

PROJECT NO. 6001921 ADOT PROJECT NO. CM-TMP-0(028)A
ADOT TRACS NO. 0000 MA TMP SS612 01C

DIRECTIONS:

1. This, or a similar document, must be submitted for each DBE used to meet the goal on the project, along with the DBE Intended Participation Affidavit.
2. An owner/officer/authorized party of the DBE firm must sign this form.
3. The form must be submitted with the DBE Intended Participation Affidavit by 4pm on the 5th working day after bids are opened.

I, NONE confirm that NONE
(authorized party at DBE firm) (name of DBE firm)

will be participating in the above project. My company will be performing

NONE for \$ 0
(general description of the work) (total dollar value)

Printed Name NONE

Title NONE

Signature NONE

Date NONE

TECHNICAL SPECIFICATIONS

SECTION 01025

MEASUREMENT AND PAYMENT

Measurement and payment for all pay items in the proposal shall be as specified in the applicable section of the Maricopa Association of Governments Uniform Standard specifications for Public Works Construction (MAG Specifications) latest edition, and supplements, and any applicable City specifications or Standards as specified in these Technical Specifications. In the event of a conflict between these Specifications and the requirements of the plans, detail drawings, or City Standard Details and the MAG Specifications, these Specifications shall prevail.

Payment of the contract items shall be compensation in full for furnishing all overhead, labor, material, tools, equipment, and appurtenances necessary to complete the work in a good, neat, and satisfactory manner as indicated on the plans, or as specified, with all necessary connections and appurtenances for the satisfactory use of and/or operation of said item. No additional payment will be made for work related to each item unless specifically noted or specified. Measurement will be in place for the completed work with no allowance for waste.

No payment will be made for any item in clean-up as set forth in Section 3.12. The cost of this work shall be included in other items of work for which payment is provided.

Item No. 1: Sawcut & Remove Concrete Curb & Gutter – Contractor shall provide materials, labor and equipment to sawcut and remove existing concrete curb and gutter. This work shall conform to MAG Standard Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per lineal foot.

Item No. 2: Sawcut & Remove Concrete Sidewalk & Sidewalk Ramps - Contractor shall provide materials, labor and equipment to sawcut and remove concrete sidewalk and sidewalk ramps as specified and shown on the plans. The work shall conform to MAG Standard Specification Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 3: Remove Existing Trees & Plants - Contractor shall provide materials, labor and equipment to remove trees and plants as specified and shown on the plans. The removal shall conform to MAG Standard Specification Sections 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract lump sum price bid.

Item No. 4: Sawcut & Remove Concrete Driveway – Contractor shall provide materials, labor and equipment to sawcut and remove concrete driveway as specified and shown on the plans. The work shall conform to MAG Standards Specification Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 5: Sawcut & Remove Existing Valley Gutter, Curb & Apron – Contractor shall provide materials, labor and equipment to sawcut and remove valley gutter, curb and apron as specified and shown on the plans. The work shall conform to MAG Standard Specification Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 6: Sawcut & Remove Asphalt Pavement - Contractor shall provide materials, labor and equipment to sawcut and remove asphalt pavement as specified and shown on the plans. The work shall conform to MAG Standard Specification Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square yard.

Item No. 7: Sawcut & Remove Existing Single Curb - Contractor shall provide materials, labor and equipment to sawcut and remove existing single curb. This work shall conform to MAG Standard Specification Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per lineal foot.

Item No. 8: Subgrade Preparation – Contractor shall provide all materials, equipment, and labor for subgrade preparation, excavation, embankment for construction of asphalt concrete pavement, or concrete pavement. This work shall conform to MAG Standard Specification Section 301 and as noted on the plans and within these specifications.

Measurement and payment will be made at the contract unit price bid per square yard.

Item No. 9: Asphalt Concrete Pavement Replacement (Tempe Std. Det. T-450) – Contractor shall provide materials, labor and equipment to place asphalt pavement as specified and shown on the plans. The work shall conform to MAG Standard Specification Section 321 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square yard.

Item No. 10: Concrete Curb & Gutter (MAG Std. Det. 220, Type A) – Contractor shall provide materials, labor and equipment to construct concrete curb and gutter. This work shall conform to MAG Standard Specification Section 340 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per lineal foot.

Item No. 11: Single Curb Termination (MAG Std. Det. 222) – Contractor shall provide materials; labor and equipment to construct single curb termination. This work shall conform to MAG Standard Specification Section 340 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per lineal foot.

Item No. 12: Concrete Apron, Valley Gutter & Curb (MAG Std. Det. 240) – Contractor shall provide materials, labor and equipment to construct concrete apron, valley gutter and curb. This work shall conform to MAG Standard Specification Section 340 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 13: Concrete Sidewalk, (MAG Std. Det. 230) – Contractor shall provide materials, labor and equipment to construct concrete sidewalk. This work shall conform to MAG Standard Specification Section 340 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 14: Sidewalk Ramp (Tempe Std. Det. T-324) – Contractor shall provide materials, labor and equipment to construct sidewalk ramp. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-324, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per each.

Item No. 15: Sidewalk Ramp (Tempe Std. Det. T-326) – Contractor shall provide materials, labor and equipment to construct sidewalk ramp. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-326, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per each.

Item No. 16: Sidewalk Ramp (Tempe Std. Det. T-348, Type B) – Contractor shall provide materials, labor and equipment to construct sidewalk ramp. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-348, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per each.

Item No. 17: Sidewalk Ramp (Tempe Std. Det. T-348, Type D) – Contractor shall provide materials, labor and equipment to construct sidewalk ramp. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-348, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per each.

Item No. 18: Concrete Driveway Entrance, 9-inch thick, (Tempe Std. Det. T-319) – Contractor shall provide materials, labor and equipment to construct concrete driveway. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-319, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 19: Concrete Driveway Entrance, 9-inch thick, (Tempe Std. Det. T-320) – Contractor shall provide materials, labor and equipment to construct concrete driveway. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-320, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 20: Remove Existing Street Light and Pole – Contractor shall provide all materials, equipment, and labor to remove existing street light. The street light and pole shall become the property of the contractor.

Measurement and payment will be made at the contract unit price bid per each.

Item No. 21: Adjust Valve to Grade (Tempe Std. Det. T-445) – Contractor shall provide all materials, equipment, and labor to adjust existing valve to grade, complete in place as specified MAG Standard Specification Section 345, Tempe Standard Detail T-445, and shown on the plans and within these specifications.

Measurement and payment will be made at the contract unit price bid per each.

Item No. 22: Remove & Relocate Sign – Contractor shall provide all materials, equipment, and labor to relocate existing sign, complete in place as specified in MAG Standard Specification Section 350, in accordance with City Standards, and shown on the plans.

Measurement and payment will be made at the contract unit price bid per each.

Item No. 23: Relocate Irrigation Valve – Contractor shall provide all materials, equipment, and labor to relocate existing irrigation valve, complete in place as specified in MAG Standard Specification Section 440 and shown on the plans.

Measurement and payment will be made at the contract unit price bid per each.

Item No. 24: Decomposed Granite – Contractor shall provide all materials, equipment, and labor the placement of decomposed granite, complete in place as specified in MAG Standard Specification Section 430 and shown on the plans.

Measurement and payment will be made at the contract lump sum price bid.

Item No. 25: Driveway Retrofit Per Detail "A" – Contractor shall provide materials, labor and equipment to construct driveway retrofit. This work shall conform to MAG Standard Specification Section 340, Tempe Standard Detail T-320, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 26: Remove & Install Hydrant Including New Pipe & Fittings (MAG Std. Det. 360) – Contractor shall provide all materials, equipment, and labor to remove existing fire hydrant, extend fire line, install new fire hydrant, pipe and fittings, complete in place as specified in MAG

Standard Specification Section 350 and Section 360, in accordance with City Standards, and shown on the plans.

Measurement and payment will be made at the contract unit price bid per each.

Item No. 27: Detectable Warning (Temp Std. Det. T-329) – Contractor shall provide materials, labor and equipment to construct detectable warning at sidewalk ramp locations. This work shall conform to Tempe Standard Detail T-329, and as noted on the plans and within these specifications.

Measure and payment will be made at the contract unit price bid per square foot.

Item No. 28: Traffic Control – The work under this item shall consist of installation and maintenance of traffic control devices in accordance with standard practices of the Manual on Uniform Traffic Control Devices (MUTCD). Item shall include all equipment, labor, materials and supplies to complete the work. Contractor must submit and receive approved traffic control plans prior to construction.

Measurement and payment will be made at the contract lump sum price bid.

Item No. 29: Miscellaneous Removals and Other Work – Contractor shall provide materials, labor and equipment to remove miscellaneous items as specified and shown on the plans. The removal shall conform to MAG Standard Specification Section 350 and as noted on the plans and within these specifications.

Measure and payment will be made at the contract lump sum price bid.

Item No. 30: Mobilization – The work under this section shall consist of preparatory work and operations, including, but not limited to, the movement of personnel, equipment, supplies, and incidentals to the project site; the establishment of all offices, buildings, and other facilities necessary for work on the project; and for all other work and operations that must be performed and costs incurred prior to beginning work on the project site.

Measurement and payment will be made at the contract lump sum price bid.

Item No. 31: AZPDES Permit (SWPPP) - The work under this item shall consist of preparing all required documents and certifications, performing inspections, and furnishing all materials, labor, and equipment necessary to comply with all requirements of the Arizona Pollutant Discharge Elimination System (AZPDES) General Permit for Storm Water Discharges from Construction Activities. The work shall also include providing, installing, maintaining, removing and disposing of erosion and sediment control measures such as gravel filter berms, dikes, catch basin inlet protection, end-of pipe filtering devices, silt fences, dams, sediment traps and basins, netting, straw bale barriers, slope drains, and other erosion control devices or methods.

Measurement and payment will be made at the contract lump sum price bid.

Item No. 32: Uniformed Off Duty Law Enforcement Officers – This is an **allowance** of \$7,500 to use off-duty law enforcement officers as required and payment will be made on an as required basis within the limit of the allowance.

Item No. 33: Permit Fees - This is an **allowance** of \$1,500.00 for reimbursement of permit fees by others than the City of Tempe.

Item No. 34: Street Light & J-Box (Tempe Std. Details T-650 & T-651) – Contractor shall provide materials, labor and equipment to install street light, pole, conduit, wiring and j-box at the location shown on the plans. The work shall conform to Tempe Standard Details T-650 and T-651 as noted on the plans and written in these specifications.

Measurement and payment will be made at the contract price per each.

Item No. 35: Trench and Conduit (2 inch Conduit with Mule Tape) - Contractor shall provide materials, labor and equipment to install street light conduit at the location shown on the plans. The work shall conform to SRP Standards for trench, conduit and backfill. The work shall also include restoration of the disturbed area to the original condition, as noted on the plans and within these specifications.

Measurement and payment will be made at the contract price per lineal foot.

Item No. 36: Remove Fence – Contractor shall provide all materials, equipment and labor to remove fence as specified in MAG Standard Specification Section 350, in accordance with City Standards and shown on the plans.

Measurement and payment will be made at the contract price per lineal foot.

END OF SECTION

