CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

CONTRACT DOCUMENTS

FOR

RENOVATION AND INFRASTRUCTURE IMPROVEMENTS – MCCLINTOCK SWIMMING POOL PROJECT NO. 6307951

Registered Professional Engineer (Civil)
CERTIFICATE NO.
49608
BARRETT B. JURGEMEYER
Date Signed 6/3/16
ARIZONA U.S.A.
Expires 6/30/16

for Special Provisions Only

APPROVED BY:

Marilyn DeRosa, P.E., R.G.
Deputy Public Works Director/ Interim City Engineer

CITY COUNCIL MEMBERS
Mayor – Mark W. Mitchell

Robin Arredondo-Savage
David Schapira
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Kolby Granville
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CITY MANAGER
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2016

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CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

NOTICE TO CONTRACTORS

RENOVATION AND INFRASTRUCTURE IMPROVEMENTS – MCCLINTOCK SWIMMING POOL PROJECT NO. 6307951

1. INTRODUCTION

THIS INVITATION FOR BIDS is hereby offered by the City of Tempe, an Arizona municipal corporation ("City"), for Renovation and Infrastructure Improvements – McClintock Swimming Pool, as set forth herein, and shall be identified as Project No. 6307951.

1.1. OVERVIEW OF PROJECT

This project involves reconstructing McClintock Swimming Pool located at McClintock High School. The bath house is not included and may be addressed at a later phase.

1.2. EXAMINATION OF PREMISES, SPECIFICATIONS, AND CONTRACT

Bidder 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.

Bidder shall also thoroughly examine and be familiar with the specifications, plans, and the Contract documents. Failure of Bidder 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, Bidder agrees that it has examined the site, specifications, plans, 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 the Notice to Proceed date and shall be completed within three hundred (300) calendar days following the Notice to Proceed date.

2. SCOPE OF WORK

The proposed work will consist of **DEMOLISHING AND RECONSTRUCTING SWIMMING POOL SHELL, DECKING, FENCING, PLUMING, AND PROCURE AND INSTALL IDENTIFIED POOL EQUIPMENT AND BULKHEAD STRUCTURE,** together with associated work.

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 Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction – 2016 Edition ("MAG Specifications") and the City of Tempe Supplement to the MAG Uniform Standard Details and Specifications for Public Works Construction – 2014 ("City of Tempe Supplement"), except as modified in the Contract.

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

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 superintendent or other properly designated agent. Instructions and information given by City construction project manager to Contractor's superintendent or agent on the work shall be considered as having been given to 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 superintendent who shall be designated in writing by Contractor and approved by City as Contractor's representative at the site. The superintendent shall have full authority to act on behalf of Contractor and all communications given to the superintendent shall be

as binding as if given to Contractor. The superintendent shall be present on the site at all times in order to perform adequate supervision and coordination of the work. No substitution of the superintendent will be permitted without prior written request by the Contractor and written consent of City.

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. He or she shall advise on questions concerning coordination with City, public safety, and quality and acceptability of materials and work performed. City Engineer, City construction project manager, or their 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 their assigned inspector may be present on the site 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 Contractor and accomplish a partial acceptance inspection. Beneficial occupancy will apply to general right-of-way projects only.

2.7. SUBSTANTIAL COMPLETION

Substantial completion is work that is ready for occupancy and use for its intended purpose as certified by City and a certificate of occupancy. This term will be applied to building construction projects only.

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 architect/engineer 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 Contract completion date established by reference to the Notice to Proceed date 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 as a number of calendar days after the Notice to Proceed date.

If time extensions are issued by City, the 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 City. Prior to final inspection on any City facilities requiring a building permit, Contractor must call for final inspection from the Community Development Department and Public Works Department of City. The final inspection must be completed prior to final acceptance and payment.

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 inspected and found to be completed in accordance with the Contract. 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 record drawings by the architect/engineer. Final payment will not be issued until all record drawings are submitted by Contractor, and are certified to be complete by the architect/engineer of record.

2.13. SHOP DRAWINGS, SCHEDULES, SAMPLES & PROJECT DOCUMENTATION

In time for each to serve its proper purpose and function, Contractor shall submit to City construction project manager such schedules, reports (including daily

construction reports and progress meeting notes), drawings, lists, literature samples, instructions, 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 as one (1) hard copy and one (1) legible electronic PDF document 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 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.

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. Instructions provided by City Engineer shall be as binding upon Contractor as though contained in the original Contract.

At the option of City construction project manager, material 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 material 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 or unsuitable material and certifying that it has obtained the property owner's permission for the disposal of all surplus material.

2.16. MISCELLANEOUS REMOVAL AND RELOCATIONS

Miscellaneous removals and relocations shall be performed by the Contractor, and is 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 removal of items of every nature and description such as pipes, concrete, asphalt, block, brick, rock, and metal, including temporary removal and reinstallation, unless such items are specifically designated in a separate bid item. In addition, certain items requiring temporary removal and reinstallation such as mail box stands, sign posts, survey monument frames and covers, shall be included in this category.

2.17. 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.

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.

2.18. SURVEY CONTROL POINTS

Existing survey monuments shall be protected by Contractor or removed and replaced under the direct supervision of City of Tempe Engineering Division Land Services Section.

One week prior to construction, Contractor shall notify City of Tempe Engineering Division Land Services Section of any survey monuments that need to be relocated. Any monuments damaged or lost due to the Contractor's negligence and/or lack of notification to City of Tempe Engineering Division Land Services Section shall be replaced at Contractor's expense. In the event a lot corner will be disturbed, Contractor shall notify affected property owner(s) and obtain consent prior to any construction. Any lot corners disturbed or lost due to Contractor's negligence shall be replaced at Contractor's sole expense.

2.19. 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; however, delays 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 that is unreasonable under the circumstances, and that was not within the contemplation of the parties to the Contract at the time the Contract was entered into.

2.19.1. 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.

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

However, if the parties cannot reach agreement for the recovery of damages as set forth herein, the determination of City shall be final.

2.20. 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.

2.21. MISCELLANEOUS WORK AND ALLOWANCES

Unless otherwise specified in the Contract, 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.

2.21.1. 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.

2.21.2. Cleanup, including day-to-day cleanup.

2.21.3. Notification to residents adjacent to this project prior to the start of work on construction that may affect them.

2.21.4. Water required for compaction or dust control.

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

2.21.6. Power pole bracing.

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

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

2.21.9. Trimming of trees and bushes.

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

2.22. 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 City must be approved prior to the start of work. The final costs for additional work shall also include all charges associated with extended general conditions or Contract acceleration. Pay requests for extra work performed shall be submitted with the next billing cycle and shall not exceed thirty (30) days from the date extra work was performed.

2.23. ADDITIONAL SERVICES

Additional services that 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. PAYMENT BOND; PERFORMANCE BOND

A payment bond and a performance bond, each in an amount equal to the full contract amount, will be required of the Contractor immediately after notice of Contract award, and before final Contract execution. Each bond shall be in accordance with Arizona Revised Statutes (A.R.S.) § 34-201, *et seq.*, as amended from time to time.

Arizona law provides that the bonds shall be executed solely by a bonding company, liability insurance carrier, or excess insurance carrier that holds a certificate of authority to transact surety business in Arizona, issued by the director of the department of insurance pursuant to A.R.S. title 20, chapter 2, article 1, as amended from time to time. Additionally, the City requires that the bonding company, liability insurance carrier, or excess insurance carrier have a Financial Strength Rating of A- or better and a Financial Size Category of VII or higher, as listed in the most recent "Best's Key Rating Guide – Property/Casualty," published by A.M. Best Company. An individual surety or sureties shall not execute either bond, even if the requirements of A.R.S. § 7-101 are satisfied.

3.2. INSURANCE

Certificates of Insurance verifying insurance coverage that meets the following minimum requirements will be required of the Contractor immediately after notice of Contract award, and before final Contract execution.

Arizona law provides that the insurer must hold a certificate of authority to transact insurance in Arizona, issued by the director of the department of insurance pursuant to Arizona Revised Statutes, title 20, chapter 2, article 1, as amended from time to time. Additionally, the City requires that the insurance company have a Financial Strength Rating of A- or better and a Financial Size Category of VII or higher, as listed in the most recent "Best's Key Rating Guide – Property/Casualty," published by A.M. Best Company. This requirement does not apply to the Workers' Compensation / Employer's Liability portion of the Certificate of Insurance.

3.2.1. 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 Employer's Liability:** Workers' Compensation and Employer's 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.

3.2.2. 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.

3.2.3. 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 with respect to: 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 with respect to City, its officers, officials, employees, agents, and volunteers. Any insurance or

self-insurance maintained by City, its officials, employees, or volunteers shall be in excess of 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 Employer's Liability Coverage**

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

c. **Health Insurance Requirements**

All Contractors who enter into a contract in excess of $30,000 with City must certify that Contractors have, and all of their subcontractors will have, health insurance for all project employees. Health insurance must be offered to eligible dependents of all such employees. An affidavit must be signed in the form included herein (Exhibit 7.10). Major subcontractors are defined as entities doing work in excess of $30,000 as determined at the start of each project. All required health insurance must be maintained during the entire time of the Contract with the City.

Health insurance is required for all Contractor and major subcontractor employees who work more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four (24) hour period, regardless of number of hours that the individual is paid. At this time, health insurance is not required for temporary employees or students working part-time who are enrolled in a recognized educational institution.

The health insurance requirements shall apply to all employees directly involved with this City project including support and administrative personnel.

All complaints concerning violations of the health insurance requirements shall be filed, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Director, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision of the Public Works Manager may be

made within ten (10) days of the date of the decision by filing a notice of appeal in writing with the Public Works Department. If an appeal is timely filed, an administrative hearing will be held before an administrative hearing officer appointed by the City Manager. The decision of the administrative hearing officer shall be final.

In the event of a finding of violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any Public Works contract with City for a period of three (3) years from the execution of the Contract.

All Contractors subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at its office and at the job site.

d. 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 City.

3.2.4. Other Insurance Requirements

Contractor shall:

a. Immediately after notice of Contract award, and before final Contract execution, 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 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 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.

3.2.5. 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 Contractor.

3.3. 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 resulting 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.

3.4. PAYMENT

City shall make payment to Contractor pursuant to A.R.S. § 34-221 and MAG Specifications 109.

3.4.1. 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.

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.

3.4.2. Payment Requests

Payment requests shall be submitted by Contractor on the standard City construction pay request form at http://www.tempe.gov/city-hall/public-works/engineering/eng-contract-payment. Requests shall be made in hard-copy only to the Engineering Division office and shall include all supporting documentation for work performed during the payment period. Pay requests submitted with insufficient documentation to verify work effort and quantities will be returned to Contractor for revision. Revised payment requests shall be re-submitted to City in hard-copy only to the Engineering Division office.

Contractor shall submit its first request for payment no later than 40 calendar days from the Notice to Proceed date. All subsequent requests for payment shall be made on a monthly basis and no later than every 30 calendar days.

3.5. PRE-BID MEETING

There will be a pre-bid meeting on September 7, 2016, at 8:00 a.m. at McClintock Swimming Pool located at 1830 East Del Rio Drive, Tempe, Arizona. Bidders are not required to attend the pre-bid meeting but are encouraged to do so.

3.6. PRE-CONSTRUCTION MEETING

Contractor shall meet with the City Engineer for a preconstruction conference prior to commencing work. At the preconstruction conference, Contractor shall submit a progress schedule showing the order in which Contractor proposes to carry out the work; the dates on which Contractor and its subcontractors will start the salient features of the work, including procurement of materials, equipment, etc.; the ordering of articles of special manufacture; the furnishing of drawings, plans, and other data for the review and approval of the City Engineer; the inspection of structural steel fabrication; and the contemplated dates for the completion of the said salient features. The schedule may be in a bar chart format or a critical path method format. No schedule activity shall be shorter than one day or longer than 15 working days. The schedule must show interrelationships among the activities, and the controlling items of work throughout the project shall be identified. If requested by the City Engineer, Contractor shall furnish information needed to justify activity time durations. Such information shall include estimated manpower, equipment, unit quantities, and production rates. The schedule shall illustrate the completion of the work not later than the contract completion date.

Contractor shall furnish authorized signature forms and a list of Contractor's proposed subcontractors and major material suppliers.

Progress schedules shall have considered the time requirement for ordering articles of special manufacture to meet specific requirements of the work when structural steel fabrication inspection is required.

Contractor shall submit a traffic control plan in accordance with the subsection of Special Terms and Conditions titled Traffic Control.

Contractor shall also submit a safety plan and designate an employee as Safety Supervisor, in accordance with ADOT Standard Specifications Subsection 107.08. If approved by the City Engineer, Contractor may designate one employee to be responsible for both the traffic control and safety plans.

If the project requires that Contractor or City personnel to work from falsework, within shoring, or in any other hazardous area, Contractor shall submit as part of Contractor's safety plan specific measures it will use to ensure worker safety.

Contractor shall also submit a program for erosion control and pollution prevention, as set forth in ADOT Standard Specifications Subsection 104.09, on all projects involving clearing and grubbing, earthwork, structural work, or other construction, when such work is likely to create erosion or pollution problems.

If Contractor fails to provide the required submissions, the City Engineer may order the preconstruction conference suspended until such time as they are

furnished. Work shall not begin until the preconstruction conference has been concluded and the safety plan has been approved, unless authorized by the City Engineer. Contractor shall not be entitled to additional compensation or an extension of contract time resulting from any delays due to such a suspension.

When the specifications require specific quality control measures for certain materials, Contractor shall designate a qualified employee as Quality Control Manager. The Quality Control Manager shall be responsible for the implementing and monitoring of the quality control requirements described in ADOT Standard Specifications Subsection 106.04(C).

3.7. CONTRACT EXTENSION

The prices bid in this Contract will be maintained for any extension period unless Contractor can demonstrate, to the satisfaction of City, that the cost of their materials or service has increased. All work set forth in this Contract will be completed or scheduled for completion prior to any extension being granted.

3.8. LICENSES

The low bidder and all subcontractors must carry the appropriate State of Arizona contractor's license(s) for the proposed work prior to award of the Contract. Should the lowest responsive bidder not be able to obtain the required license(s), the project may be awarded to the next lowest responsive bidder who has the required license(s).

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.

3.9. 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 Air Quality Department permit as required under Rule 200 of the Maricopa County Air Pollution Control Rules and Regulations. 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 Air Quality Department at 602-506-6010 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 a City haul permit.

3.10. LANDSCAPING AND IRRIGATION REQUIREMENTS

As applicable, Contractor shall be required to construct the landscape and irrigation improvements in accordance with the requirements of MAG Specifications Sections 430, 440, and 795, and the City of Tempe Public Works Department Standard Landscape and Irrigation Details and Specifications, latest edition (available at the City of Tempe Engineering Division, 31 East Fifth Street for five dollars ($5.00) or online at http://www.tempe.gov/engineering). In addition, the landscape plant establishment and maintenance period will be ninety (90) days.

3.11. SPECIFIC PRODUCTS OR BRANDS

In accordance with MAG Specification 106.4, specific brands and/or models of equipment, materials, or patented processes listed in the plans, specifications, standard details, and standard specifications are for demonstrative purposes only. They should not be construed as a sole source request for a specific product or brand. Contractor shall provide City with the required product data including, but not limited to, manufacturers' standard catalog cuts, brochures, diagrams, schedules, performance charts, illustrations, calculations, schematic drawings, printed installation, erection, application, and placing instructions, and other descriptive data related to the product in order for City to determine if the product is equivalent to the product listed for approval.

3.12. ENVIRONMENTAL REQUIREMENTS

3.12.1. 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.

3.12.2. 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.

3.12.3. 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 unless otherwise directed by the City of Tempe Solid Waste Supervisor. If you should have any questions concerning any of the requirements or charges, please contact the Solid Waste 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. When archaeological features are encountered or unearthed, Contractor shall promptly report to the Director of the Arizona State Museum and to City. Excavation shall not resume in the identified area until approved by City 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 National Pollutant Discharge Elimination System (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.

3.13. SAFETY REQUIREMENTS

Contractor shall comply with all applicable federal, state, and 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.C. § 651 *et seq.*), and all rules, regulations, and orders adopted pursuant thereto.

3.14. TRAFFIC CONTROL

3.14.1. All traffic shall be regulated in accordance with the MAG Specifications; the City of Tempe Traffic Barricade Manual, latest edition; the Manual on Uniform Traffic Control Devices (MUTCD); and any special provisions included herein.

At 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 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 effect 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 final 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," or the City of Tempe Traffic Barricade Manual, latest edition. 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 City. Any and all repairs and/or replacement costs expended by City in this regard shall be reimbursed by Contractor at twice 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 Americans with Disabilities Act and as approved by City. Contractor shall abide by applicable speed limits. Additional information may be obtained by contacting the City Transportation Division at 480-350-8219.

3.14.2. Temporary Barricades

Temporary barricades shall be regulated in accordance with the City of Tempe Traffic Barricade Manual, latest edition.

No additional payment by City will be made to Contractor or its subcontractor for temporary barricades, unless otherwise specified in the bid.

3.15. 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. 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 City; and remove all equipment, materials, tools, and Contractor's personal property prior to submission of final invoice to City.

In accordance with MAG Specifications Section 105, Contractor shall respond within twenty-four (24) hours 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 Contractor, and recover all attendant costs.

3.16. 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 for 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.

3.17. BLUE STAKE & CALL BEFORE YOU DIG

Contractor is required to use Arizona Blue Stake, Inc., at 602-263-1100, to comply with the statutory requirements in A.R.S. title 40, chapter 2, article 6.3 (Underground Facilities); A.R.S. § 40-360.21, *et seq.*, as amended from time to time.

Where railroad property may be impacted, Contractor must also notify and secure a current Call Before You Dig (CBUD) Ticket at 1-800-336-9193 from Union Pacific Railroad's Response Management Communications Center (RMCC), wait for the site to be marked, respect all markings, and dig with care.

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 such facilities.

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 the City of Tempe Utility Permit and Construction Manual, latest edition, available at http://www.tempe.gov/engineering.

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. NOTIFICATION OF PROPERTY OWNERS

Contractor shall notify all property owners who may be affected by the proposed construction activities of the scope and duration of the construction activities at least forty-eight (48) hours in advance of the start of any work or construction.

3.22. ACCESS

Contractor shall maintain public access to businesses adjacent to the job site at all times during construction. Where property has more than one access point, no more than one access point 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 all times. Access to adjacent private driveways shall be maintained by Contractor during all non-working hours.

3.23. UTILITY AND PUBLIC AGENCY CONSTRUCTION CLEARANCE AGREEMENT

Utilities and other public agencies may require all contractors, if working on their facilities, to sign a standard form "Construction Clearance Agreement," or other form of agreement, prior to issuance of a license. Contractor shall execute the Construction Clearance Agreement with the utility or public agency, if required, and furnish a copy to City prior to proceeding with any construction on utility or public agency 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.

3.24. GOVERNMENT APPROVALS AND PERMITS

3.24.1. Unless otherwise provided, Contractor shall obtain all necessary permits, approvals, and licenses required for the commencement 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.

3.24.2. Copies of all permits and notices shall be provided to City 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.

3.24.3. 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.

3.24.4. 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.

3.25. KEY CONTACTS

During the bidding process, any questions shall be submitted to Wendy Springborn, Engineering Procurement Officer, at wendy_springborn@tempe.gov.

Blue Stake Center	602-263-1100
Call Before You Dig (UPRR)	800-336-9193

3.26. DUST PREVENTION

Contractor shall take all necessary steps to ensure dust-free conditions on property within the City to the satisfaction of the City Engineer, and fully comply with A.R.S. § 49-474.06 and Maricopa County Air Pollution Control Rules and Regulations Rule 200 § 305-306, concerning dust-generating operations as defined by Maricopa County Rule 310. 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 shall obtain a Maricopa County dust control permit. Contractor shall provide assurance that subcontractors used on the dust-generating portion of the Project are registered with the Maricopa County Air Quality Department and that only certified PM-10 efficient street sweepers shall be used to sweep City streets, as required by Tempe City Code Sec. 26A-25. Contractor shall provide its subcontractor(s)' registration number and dust control plan, if applicable, to the City Engineer prior to engaging in any dust-generating activities. Project related hauling activities to and/or from storage located on property owned by City shall be listed on the approved dust control permit and shall be subject to control measures in the approved dust control plan. When hauling fill or excavation materials exceeding five thousand (5,000) cubic yards

or when the duration of the haul is more than ten (10) working days, Contractor shall obtain a City haul permit before the hauling operation begins. Prior to receiving a haul 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 Engineer.

All costs associated with the submittal, approval, and implementation of the permit and dust control plan as approved by Maricopa County Air Quality Department shall be borne solely by the Contractor. Failure to fully comply with this provision shall be considered a material breach of the Contract, and shall subject the Contract to termination by the City, in addition to other legal remedies.

3.27. 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. Information on any complaint shall be reported to the Project Manager promptly, but in no event more than forty-eight (48) hours of receipt of complaint.

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. (Arizona time) September 22, 2016. 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: RENOVATION AND INFRASTRUCTURE IMPROVEMENTS – MCCLINTOCK SWIMMING POOL
PROJECT NO. 6307951

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.

Please see the BIDDER'S CHECK SHEET in the Exhibits section of this Invitation for Bid.

Each bid shall be accompanied by a bid guarantee for ten percent (10%) of the amount of the bid. See the subsection of Instructions to Bidders titled Bid Security.

Each bid also shall be accompanied, in a separate envelope, by the bidder's current loss history information from all of the bidder's insurance carriers. The information specific to workers' compensation insurance carriers must include a three-year (3-year) history of the bidder's Experience Modification Factor (EMOD) and its loss ratio.

In addition, each bidder is required to submit an affidavit certifying that its 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.

Plans and specifications are available for download from the City of Tempe Engineering Division at www.tempe.gov/engprojectsbidding. When the documents are downloaded, Contractors MUST register on-line as a plan holder to be notified of project addenda. If addenda are issued for this project the City of Tempe will attempt to notify plan holders at the email address provided. It is the Contractor's sole responsibility to confirm that they have received all addenda prior to submitting a bid. The City is not responsible for providing notification or addenda to Contractors.

When it is in the best interests of the City of Tempe, the City may cancel this solicitation, or may reject any and all bids in whole or in part, or may waive any informalities in the bids received.

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

Any questions regarding this solicitation shall be submitted to Wendy Springborn, Engineering Services Manager, at wendy_springborn@tempe.gov.

Anyone wishing to receive future notices through automatic notification by email can register their company name and email address at www.tempe.gov/enews (select the following e-notify list: Engineering Bid/RFQ Notification).

4.2. ADDENDA

Addenda issued prior to the deadline for bidding shall be attached to and made a part of the Contract. Contractor shall acknowledge receipt of all addenda on the Competitive Sealed Bid form.

4.3. BID SECURITY

Each bid shall be accompanied by a bid guarantee for ten percent (10%) of the amount of the bid, executed in accordance with the requirements of A.R.S. § 34-201, *et seq.*, as amended from time to time. The bid guarantee shall be in the form of a certified check, cashier's check, or surety bond. If a surety bond is used, the bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Arizona, issued by the director of the department of insurance pursuant to Arizona Revised Statutes, title 20, chapter 2, article 1, as amended from time to time. The surety bond shall not be executed by an individual surety or sureties, even if the requirements of A.R.S. § 7-101 are satisfied. Additionally, the City requires that a bonding company, liability insurance carrier, or excess insurance carrier issuing a surety bond have a Financial Strength Rating of A- or better and a Financial Size Category of VII or higher, as listed in the most recent "Best's Key Rating Guide – Property/Casualty," published by A.M. Best Company.

Bid guarantees shall be returned to bidders whose bids are not accepted, and to the successful Contractor upon its execution of the Contract and delivery of a satisfactory performance bond, payment bond, and certificate of insurance.

4.4. BIDS

Bids shall be properly executed upon the Competitive Sealed Bid Forms attached and made a part of this Contract. Electronic signatures will not be accepted. 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 or electronic bids or modifications will be considered.

4.5. 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 City.

4.6. BIDDING PHASE REQUIREMENTS

4.6.1. Pursuant to A.R.S. § 1-502, any individual/sole proprietor (unincorporated business) who responds to this Invitation for Bids by signing the Competitive Sealed Bid Forms shall also sign a sworn Affidavit Demonstrating Lawful Presence in the United States (see Exhibits) and

present one of the documents listed on the affidavit to verify lawful presence in the United States. Failure to sign said affidavit and present one of the listed documents **shall result in rejection of the bid.**

4.6.2. Each bid shall be accompanied, in a separate envelope, by the bidder's current loss history information from all of the bidder's insurance carriers. The information specific to workers' compensation insurance carriers must include a three-year (3-year) history of the bidder's Experience Modification Factor (EMOD) and its loss ratio. This information must be provided with the bidder's proposal.

4.7. PRE-CONTRACT AWARD REQUIREMENTS

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

4.7.2. **Taxes.** All applicable taxes due and owing by Contractor and all subcontractors shall be considered by 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 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.

4.8. 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.

4.9. PROTEST PROCEDURE

A bidder or contractor who believes they are aggrieved in connection with the City's solicitation or award of a contract may file a protest with the Engineering Division procurement office, as set forth in Section 26A-21 of the Tempe City Code.

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.

This Contract shall be in full force and effect only after it has been awarded by the City Council of Tempe, Arizona.

Contractor shall execute the Contract and all exhibits and attachments thereto, counterparts permitted, within ten (10) calendar days after being given formal notice of City Council's award of the Contract.

Contractor's failure to execute this Contract and to file satisfactory contract bonds and insurance certificates as provided herein within ten (10) calendar days after being given formal notice of Contract award shall result in immediate cancellation of the award.

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.

5.3. ISSUANCE OF THE NOTICE TO PROCEED

Notwithstanding unforeseeable circumstances, the Notice to Proceed shall be issued by City within sixty (60) calendar 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 MAG Specifications Table 108-1.

6.2. ESCROW AND HOLDBACK

In the event of a dispute arising under this Contract that is not summarily resolved by the parties concerning any withholding or nonpayment of funds by the City, the parties agree that said disputed funds may be held back and placed into a neutral escrow account, in the form of an interest bearing savings account, until the dispute is resolved. By signing this Contract, Contractor acknowledges and

agrees to the deposit of any and all disputed funds into an escrow account into the financial institution of the City's election.

Except as to those amounts withheld, at City's direction, the balance of the funds shall be paid to Contractor or subcontractor(s), as set forth by Arizona law. Any funds remitted to City in excess of the amount allowed by statute will be reimbursed to Contractor. In no event shall City be liable to Contractor for damages resulting from a claimed loss due to payment of the excess funds or due to a delay in reimbursing the excess payment.

Once per calendar month, the financial institution shall furnish the City and Contractor with a statement reflecting the funds held as of the last day of the preceding calendar month, and showing the transactions for that prior month. At the request of Contractor or City, the financial institution shall furnish both parties with an interim statement showing funds held as of the 25th day of the most recent month or, if a non-business day, the following business day of that month.

Contractor acknowledges and agrees that all fees, costs, and charges imposed by any financial institution in connection with the maintenance and administration of the disputed funds shall be charged to, and paid by, Contractor. The funds shall be free of any claim for such fees, costs, or charges. However, the financial institution may obtain payment for any such accrued fees, costs, and charges owed by Contractor related to said funds out of available interest earned on the funds, or deduct the same from any funds to be paid to Contractor, according to written disbursement instructions from City.

The parties acknowledge and agree that in the event of no resolution between the parties concerning distribution of the disputed funds, the funds may be interplead in a court of competent jurisdiction in Maricopa County, Arizona.

It is understood that financial institution shall not be deemed liable, nor responsible, for the collectability of any funds assigned or held in connection with this provision.

6.3. 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 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 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.

In no event shall the City be obligated, liable, or responsible for performance of the obligations set forth herein, any provision of this Contract, or any expenses incurred by Contractor in securing this Contract (including, but not limited to, purchasing insurance coverage, performance bonds, or other security), at any time, including prior to or following City Council's approval of this Contract, should funds not be appropriated by the City through its Council or staff, in order to complete the Project. In the event that funds are not appropriated to meet or complete this Contract, then City shall immediately provide notice to Contractor of such non-allocation and terminate the Contract. City shall incur no resulting liabilities or penalties for termination under this Section.

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

6.4. DEFAULT PROVISIONS

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

6.4.1. 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;

6.4.2. 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;

6.4.3. 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;

6.4.4. 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 the requirements of the Contract and fails to cure such non-performance within ten (10) days after written notice from City;

6.4.5. 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 the 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 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 to be non-compliant with the specifications.

6.5. 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 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 herein. 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.

6.6. 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 any infringement of the patent right, copyright, or trademark of any person, persons, or entity in consequence 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.

6.7. COMPLIANCE WITH STATE AND FEDERAL LAWS

6.7.1. 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 contendre*, indicted, arraigned, or custodially detained on

charges involving money laundering or predicate crimes to money laundering.

6.7.2. **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 Legal Arizona Workers Act (LAWA), 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 that 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.

6.7.3. **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, creed, religion, ancestry, national origin, physical or mental disability, age, sex, gender, sexual orientation, gender identity, marital status, or veteran status, with regard to discharging obligations under this Contract. Contractor covenants and agrees that it will comply in all respects with the applicable provisions of 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 to be provided by the contracting officer setting for the provisions of this clause.

6.7.4. **Federal Employer Sanctions Law.** Contractor understands and acknowledges the applicability of the Federal Employment Eligibility Verification Requirements ("Requirements"), including, but not limited to, Executive Order 12989, Federal Acquisition Regulation E-Verify clause (73 F.R. 67704), and 8 U.S.C. § 1324, *et seq.*, as amended from time to time. Contractor warrants current compliance with these and all Federal immigration laws and regulations that relate to their employees, on behalf of the Contractor and all of its subcontractors, including the use of E-

Verify to confirm the employment eligibility of all persons hired during a Contract term and current employees performing under the Contract within the United States. Should the Requirements conflict with any applicable state laws or regulations as referenced in 6.7.2., the Requirements shall prevail.

6.7.5. **Boycott**. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Contract/Agreement that it will not engage in, a boycott of Israel, as that term is defined in A.R.S. § 35-393.

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.

6.8. ANTIDISCRIMINATION

Contractor shall not refuse to hire or employ or bar or discharge from employment any person, or discriminate against such person in compensation, conditions, or privileges of employment because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status. Contractor shall provide a copy of its antidiscrimination policy to City to confirm compliance with this requirement or attest in writing to compliance based upon criteria outlined on Page AD-1.

6.9. 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.

6.10. DISPUTE RESOLUTION

The parties may mutually agree to submit any dispute arising under this Contract to binding arbitration, conducted by a sole arbitrator mutually agreed upon by the parties, to hear and render a decision to resolve said dispute. The arbitration shall be held in Tempe, Arizona, subject to the laws of the State of Arizona. Each party shall bear its own costs and attorney's fees. A decision shall be made by the arbitrator within seven (7) calendar days of the arbitration hearing.

6.11. SUCCESSORS AND ASSIGNS

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

6.12. 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.

6.13. SURVIVAL

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

6.14. 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.

6.15. 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.

6.16. TIME IS OF THE ESSENCE

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

6.17. 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.

6.18. 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.

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

6.19. COOPERATION AND FURTHER DOCUMENTATION

Contractor agrees to provide City such 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 the City Council of the City of Tempe, Arizona, and when executed by the duly authorized City officials and the duly authorized agent of Contractor.

6.20. 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.

6.21. NOTICES TO CITY ENGINEER

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

Renovation and Infrastructure Improvements – McClintock Swimming Pool
Marilyn DeRosa, Interim City Engineer
City of Tempe Engineering Division
31 E. Fifth Street, Garden Level
Tempe, Arizona 85281
480-350-8200

6.22. NOTICES TO CONTRACTOR

(To be completed by successful bidder)

_____

Printed Name of Signatory

Company Name: _____

Address: _____

_____

_____

Phone:_____

Email:_____

6.23. GIS DATA DISCLAIMER

THE CITY OF TEMPE DOES NOT WARRANT THE ACCURACY, COMPLETENESS, CONDITION, SUITABILITY, PERFORMANCE, OR CURRENCY OF THE GIS DATA PROVIDED UNDER THIS CONTRACT. AREAS DEPICTED BY GIS DATA ARE APPROXIMATE, AND NOT GUARANTEED TO BE ACCURATE TO STANDARDS FOR MAPPING, SURVEYING, OR ENGINEERING. THIS DATA IS FOR ILLUSTRATIVE PURPOSES ONLY AND SHOULD NOT BE RELIED UPON FOR SITE-SPECIFIC PURPOSES. THE DATA HEREIN IS SUBJECT TO CONSTANT CHANGE AND MAY NOT BE COMPLETE, ACCURATE, OR UP-TO-DATE. THE CITY OF TEMPE IN NO WAY ASSUMES LIABILITY OR RESPONSIBILITY FOR ANY INCORRECT DATA OR ANY INFORMATION PROVIDED HEREIN. THE CONTRACTOR ACKNOWLEDGES AND AGREES THAT THE CITY OF TEMPE ASSUMES NO LIABILITY FOR DAMAGES INCURRED DIRECTLY OR INDIRECTLY RESULTING FROM INCOMPLETE, INCORRECT, OR MISSING INFORMATION; INCLUDING ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED OR UNDER ANY THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE. **BY WAY OF THE SIGNATURE ON THIS CONTRACT, THE CONTRACTOR ASSUMES ALL LIABILITY FOR ANY AND ALL DEPENDENCE AND/OR RELIANCE UPON THIS INFORMATION AND ASSUMES ALL RESPONSIBILITY RELATING THERETO. ANY AND ALL EXPRESSED OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PURPOSE ARE SPECIFICALLY AND**

EXPRESSLY DISCLAIMED. CONTRACTOR SHOULD NOT RELY UPON THE GIS DATA WITHOUT PROPER FIELD VERIFICATION FOR ANY PURPOSE.

6.24. 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.

6.25. LABOR

Contractor agrees and covenants to use only licensed contractors and subcontractor(s) in the making and/or installation of any and all repairs, alterations, improvements, or other work of Contractor on the Project. Contractor shall be liable to City for any losses and liabilities associated with any violation of this provision, and the Contract shall immediately be terminated upon any violation by Contractor.

6.26. NON-APPROPRIATION OF FUNDS OR NON-FUNDING

If the funds necessary for City's performance under this Contract are not appropriated or are otherwise made unavailable to the City, City may provide written notice to Contractor and cancel this Contract without further obligation of City. The parties understand and agree that funding and appropriations are beyond the control of the City.

6.27. PUBLIC RECORDS

The City is a public entity subject to the provisions of the Arizona Public Records Law, A.R.S. § 39-121, *et seq.* ("Law"). Some or all of the information contained within the Contract and related documents constitutes a public record that the City may be required to disclose to other persons or entities. In the event of receipt of a public records request by the City, Contractor must provide verification that its document falls under the exception to the Law in order to contest disclosure of said document. In the event of Contractor contesting disclosure, said document shall be submitted to a court of competent jurisdiction for an *in camera* review and determination, at Contractor's sole expense.

6.28. COUNTERPARTS

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument, and it shall not be necessary that any single counterpart bear the signature of all parties.

6.29. RECORD RETENTION

Contractor agrees to retain all records relating to the Contract pursuant to A.R.S. § 35-214, as amended from time to time. Contractor agrees to make those records available at all reasonable times for inspection and audit by City during the term of the Contract and for a period of five (5) years after the completion of the Contract. The records shall be provided at City Public Works Department, Engineering Division, Tempe, Arizona, or another location designated by City upon reasonable notice to Contractor.

6.30. DRUG-FREE WORKPLACE

The Contractor is hereby advised that the City has adopted a policy establishing a drug-free workplace for itself and as a requirement for sellers/Contractors doing business with the City to ensure the safety and health of employees working on City license agreements, contracts, and/or projects. The Contractor agrees to require a drug-free workplace for all employees working under this Contract. Specifically, all employees of the Contractor who are performing work under this Contract shall be notified, in writing, by the Contractor that they are prohibited from the manufacture, distribution, dispensation, possession, or unlawful use of a controlled substance in the work place or work site. Any violation of this section constitutes a material breach of this Contract.

7. 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.

7.1 BIDDER'S CHECK SHEET

7.2 COMPETITIVE SEALED BID FORMS

7.3 BIDDER'S PROJECT REFERENCES

7.4 BIDDER'S LIST OF PROPOSED SUBCONTRACTORS

7.5 COMPETITIVE SEALED BID CERTIFICATION FORM

7.6 CERTIFICATION BY THE CONTRACTOR AUTHORIZING EMPLOYEES TO SIGN BINDING AGREEMENTS

7.7 PERFORMANCE BOND FORM

7.8 PAYMENT BOND FORM

7.9 UNCONDITIONAL WAIVER AND RELEASE FOR CONTRACTOR'S PAYMENT AND SETTLEMENT OF CLAIMS

7.10 AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT REGARDING HEALTH INSURANCE

7.11 GUIDELINES FOR IMPLEMENTATION OF HEALTH INSURANCE

7.12 PROMPT PAYMENT REQUIREMENTS

7.13 AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES

7.14 AFFIDAVIT OF COMPLIANCE WITH TEMPE CITY CODE ON ANTIDISCRIMINIATION

[CONTRACT SIGNATURE PAGE FOLLOWS THIS LIST OF EXHIBITS]

CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, this Contract has been duly executed by the parties below and entered into this 27th day of October, 2016.

CITY OF TEMPE, an Arizona municipal corporation

By:_____
Name

Its:_____
Title

ATTEST:

_____
City Clerk

Recommended By:

_____
Deputy Public Works Director/Interim 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:

SUN EAGLE CORPORATION
Company Name

By:_____
Signature

_____
Printed Name

Its:_____
Title

City Transaction Privilege
License (Sales Tax) Permit No.

_____

_____
Witness [IF CONTRACTOR IS INDIVIDUAL]

7.1.

BIDDER'S CHECK SHEET

This check sheet lists the items a bidder must include with its sealed bid.

	Included	
Competitive Sealed Bid Forms (Confirm receipt of Addenda) ..... B-1 to B-4	☐	
Competitive Sealed Bid Certification Forms CF-1	☐	
Bidder's Project References PR-1	☐	
Bidder's List of Proposed Subcontractors SB-1	☐	Separate Envelope
Bidder's Affidavit Regarding Health Insurance AFF-3	☐	Separate Envelope
Bidder's Affidavit Demonstrating Lawful Presence in the United States LP-1	☐	
10% Bid Guarantee (see Invitation for Bids section 4.3)	☐	
EMOD and Loss Ratio Information (see Invitation for Bids section 4.6.2)	☐	Separate Envelope

NOTE: THE BIDDER IS SOLELY RESPONSIBLE FOR SUBMITTING WITH ITS BID ALL ITEMS REQUIRED BY THIS INVITATION FOR BID DOCUMENT. THIS CHECK SHEET IS PROVIDED SOLELY TO AID THE BIDDER IN PREPARING ITS BID SUBMITTAL, AND SHALL NOT BE CONSTRUED AS IMPOSING RESPONSIBILITY ON THE PART OF THE CITY OF TEMPE.

7.2.

COMPETITIVE SEALED BID FORMS

Place: Tempe, Arizona

Date: 09/22/2016

Mayor and City Council
City of Tempe
Tempe, Arizona 85281

In compliance with your Invitation for Bids and all conditions of the Contract, Sun Eagle Corporation, a corporation or limited liability corporation organized under the laws of the State of Arizona; a partnership consisting of _____; or an individual trading as _____, of the City of Chandler, and the County of Maricopa, hereby proposes and agrees to furnish any and all plans, materials, labor, construction equipment, service, and transportation (all applicable taxes included) of the **RENOVATION AND INFRASTRUCTURE IMPROVEMENTS – MCCLINTOCK SWIMMING POOL, PROJECT NO. 6307951,** and to install the material therein for City in a good and workmanlike and substantial manner and to the satisfaction of City or its 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:

City of Tempe

Project No. 6307951

Renovation and Infrastructure Improvements - McClintock Swimming Pool

SUN EAGLE CORPORATION

Base Bid

Item No.	Item Name	Quantity	Unit	Unit Cost	Total Cost
1	Mobilization	1	LS	$30,000.00	$30,000.00
2	Safety and Security	1	LS	$10,000.00	$10,000.00
3	Demolition and Haul Off	1	LS	$133,000.00	$133,000.00
4	Layout/Form/Excavation	1	LS	$121,000.00	$121,000.00
5	Underground Plumbing	1	LS	$79,000.00	$79,000.00
6	Mechanical Room Plumbing	1	LS	$138,000.00	$138,000.00
7	Reinforcing	1	LS	$128,000.00	$128,000.00
8	Fencing	1	LS	$47,000.00	$47,000.00
9	Pool Concrete/ Shotcrete	1	LS	$238,000.00	$238,000.00
10	Rimflow Gutter Coping	1	LS	$165,000.00	$165,000.00
11	Tile	1	LS	$75,000.00	$75,000.00
12	Fitting and Embeds	1	LS	$236,000.00	$236,000.00
13	Bulkheads	1	LS	$389,000.00	$389,000.00
14	Filters	1	LS	$104,000.00	$104,000.00
15	Pumps and Mechanical Devices	1	LS	$58,000.00	$58,000.00
16	Pool Interior Finish	1	LS	$164,000.00	$164,000.00

17	New Deck Concrete	1	LS	$88,000.00	$88,000.00
18	Prepare Exisitng Deck for New Coating	1	LS	$6,000.00	$6,000.00
19	New Deck Coating	1	LS	$85,000.00	$85,000.00
20	New Trench Drains	1	LS	$25,000.00	$25,000.00
21	Pump Starters and Connections	1	LS	$5,000.00	$5,000.00
22	Circuit Breakers and Devices	1	LS	$15,000.00	$15,000.00
23	Pool Lighting Connections	1	LS	$6,000.00	$6,000.00
24	Pool Bonding	1	LS	$5,000.00	$5,000.00
25	Exit Signs	1	LS	$4,000.00	$4,000.00
26	Conduit and Wiring	1	LS	$26,000.00	$26,000.00
				Total Base Bid:	***$2,380,000.00***

Alternate No.1

Item No.	Item Name	Quantity	Unit	Unit Cost	Total Cost
1	Ultraviolet Disinfection System	1	LS	$86,500.00	$86,500.00
				Total Alternate No.1:	***$86,500.00***

Total Base Bid: ***$2,380,000.00***

Total Alternate (1): ***$86,500.00***

Grand Total Base Bid Plus Alternate (1): ***$2,466,500.00***

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.

The undersigned understands that, when it is in the best interests of the City of Tempe, the City may cancel this solicitation, or may reject any and all bids in whole or in part, or may waive any informalities in the bids received.

Contractor's performance shall not start until after receiving the Notice to Proceed, and the work will be completed within three hundred (300) consecutive calendar days after the Notice to Proceed date.

The undersigned hereby acknowledges receipt of the following Addenda: Addendum No. 1 issued 9/13/16 and Contractor's bid has been adjusted to reflect any changes.

Respectfully submitted,

By: _____
Signature

_____
Printed Name

Its: _____
Title

ROC070146
ROC070147
Contractor's License No.

86-0340544
Federal I.D. No./Social Security No.

13775
City of Tempe Sales Tax License No.

For: Sun Eagle Corporation
Company Name

Address: 461 North Dean Avenue

Chandler, AZ 85226

Phone: 480-961-0004

Fax: 480-910-0160

7.3.
BIDDER'S PROJECT REFERENCES

Renovation and Infrastructure Improvements – McClintock Swimming Pool
Project No. 6307951

Each bidder shall list at least three (3) projects, if possible, similar in scope to this project, that bidder has completed. Show references in the space provided below (or attached separate sheet):

Job Title/Description/	Contracting Agency	Phone No./Contact Person
Rhodes Jr. High School Aquatic Center	City of Mesa	(480) 644-2748 / Darla Armfield
Skyline High School Aquatic Center	City of Mesa	(480) 644-2748 / Darla Armfield (480) 655-0633 / Vince Di Bella
Mesa Aquatic Center	City of Mesa	(480) 644-2748 / Darla Armfield (480) 655-0633 / Vince Di Bella

Rhodes Jr. High School Aquatic Center

1860 South Longmore, Mesa, AZ 85210

mesa·az

OWNER:
City of Mesa
20 East Main Street
Suite 500
P.O. Box 1466
Mesa, AZ 85211

ARCHITECT:
Versar, Inc.
1 North MacDonald
Suite 301
Mesa, AZ 85201

PROJECT AWARDED:
July 2008

PROJECT COMPLETION:
August 2009

PROJECT SIZE:
Buildings:
42,000 square feet
Pools (2):
1.5 million gallons

CONSTRUCTION COST:
$6,183,989

PROJECT MANAGER:
Perry Gordon, LEED® AP
Sun Eagle Corporation

REFERENCE:
Darla Armfield
City of Mesa
Phone: (480) 644-2748

This project was a new 700,000 gallon pool consisting of competition swim lanes, diving areas including two diving boards, a splash pad, zero depth entry pool and play area. Also included in the project was a standing wave feature called the FlowRider. It is the first of its kind in Arizona and is the major attraction of this facility. This project also included three new buildings and one building remodel totaling 42,000 sf. The pool subcontractor on this project was Shasta Industries.

Sun Eagle CORPORATION

Skyline High School Aquatic Center

845 South Crismon Road, Mesa, AZ 85208

mesa·az

OWNER:
City of Mesa
20 East Main Street
Suite 500
P.O. Box 1466
Mesa, AZ 85211

ARCHITECT:
Saemisch + Di Bella Architects
48 West Main Street
Suite #200
Mesa, AZ 85201

PROJECT AWARDED:
February 2010
Started June 2011

PROJECT COMPLETION:
February 2011

PROJECT SIZE:
Building: 15,000 square feet
Pools: 2.5 million gallons

CONSTRUCTION COST:
$7,714,596

PROJECT MANAGER:
Perry Gordon, LEED® AP
Sun Eagle Corporation

REFERENCE:
Darla Armfield
City of Mesa
Phone: (480) 644-2748

Vince Di Bella
Saemisch + Di Bella
Architects Inc.
Phone: (480) 655-0633

The primary components of this project were an Olympic-sized competition pool and a recreation pool (totaling 1.5 million gallons) with swim lanes, bulkhead and diving facilities for high school competitions throughout the region. The facility includes bleacher seating to accommodate 1,200 spectators for these events. This project included 15,000 sf of building space to service the facility. The buildings are masonry construction with wood trusses, wood deck and built up roofing. The buildings include multi-purpose room, storage, offices, men's & women's locker rooms and a pool equipment& storage area. The pool subcontractor on this project was Shasta Industries. This project was completed in 223 days.

Sun Eagle CORPORATION

Mesa Aquatic Center – Mesa High School

1630 East Southern Avenue, Mesa, AZ 85204

OWNER:
City of Mesa
Engineering Department
20 East Main Street
5th Floor / Suite 200
Mesa, AZ 85201

ARCHITECT:
Saemisch + Di Bella
Architects, Inc.
48 West Main Street
Suite 200
Mesa, AZ 85201

PROJECT AWARDED:
July 2014

PROJECTED COMPLETION:
May 2015

PROJECT SIZE:
12,000 sf + pool

FINAL AMOUNT:
$6,572,244

PROJECT MANAGERS:
Perry Gordon (started)
Mike Kavathas (finished)
Sun Eagle Corporation

REFERENCE:
Dada Armfield
City of Mesa
Phone: (480) 644-2748

Vince Di Bella
Saemisch + Di Bella
Architects, Inc. Phone:
(480) 655-0633

This project included a competition pool, lazy river feature, bleachers, event staging, 12,000 sf of buildings that include a pool equipment room with storage, a building that houses modern shower and locker facilities and an ADA compliant building, pool facilities and parking. This project was built on the Mesa High School campus. This project was completed in 302 days.

7.4.

BIDDER'S LIST OF PROPOSED SUBCONTRACTORS

Renovation and Infrastructure Improvements – McClintock Swimming Pool
Project No. 6307951

In accordance with the provisions of Section 108.2 of the "Maricopa Association of Governments Uniform Standard Specifications for Public Works Construction", the bidder shall provide the information listed below regarding proposed subcontractors in a separate sealed envelope. Failure to provide complete and accurate information may disqualify the bid.

Subcontractor Name	Address	Type of Work	% of Total Contract	License #	Tempe Privilege Tax License #
Shasta Commercial	PO Box 28248 Scottsdale, AZ 85255	Pool		ROC 080052 ROC 076624	07014797
Industrial West Electric	48412 N Black Canyon New River 85087	Electric		ROC 146403	07592378
Briddle & Brown Fence	895 E Elwood Phoenix 85041	FENCE		ROC 272838	202333
RAMM	2105 S. Hardy Dr Tempe AZ 85282	Testing		N/A	13463
TCH Southwest	5670 S. 40th Str Phoenix 85040	Doors + Hardware		ROC 250885	410832446
Crout & Heffer	615 S. Country Club Dr Mesa 85210	Painting		ROC 176126	67923

7.5.

COMPETITIVE SEALED BID CERTIFICATION FORM

Renovation and Infrastructure Improvements – McClintock Swimming Pool
Project No. 6307951

Bidder certifies that it is a: _____ proprietorship; _____ partnership; __X__ corporation; _____ other.

Arizona Sales Tax No. 07-203267 N

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

City of Tempe Sales Tax No. 13775

Taxpayer's Federal Identification No. 86-0340544

Bidder certifies that it has read, understands, and will fully and faithfully comply with this Invitation for Bids, its attachments, and any referenced documents. Bidder also certifies that the bid was independently developed without consultation with any other Bidders or potential Bidders.

Company's Legal Name: SUN EAGLE CORPORATION

Address: 461 North Dean Avenue

City, State and Zip Code: Chandler, AZ 85226

Telephone Number: (480) 961-0004

Company's Fax Number: (480) 940-0160

Company's Toll Free Number: _____

Signature: _____

Printed Name and Title: Martin Alvarez Sr., CEO

E-Mail Address: mealvarezsr@suneaglecorporation.com

MAILING ADDRESSES

Purchase Order Address: (If different from above)

Name: _____

Address: _____

City, State and Zip Code: _____

Payment Address: (If different from above)

Name: _____

Address: _____

City, State and Zip Code: _____

7.6.

CERTIFICATION BY THE CONTRACTOR AUTHORIZING EMPLOYEES TO SIGN BINDING AGREEMENTS

Renovation and Infrastructure Improvements – McClintock Swimming Pool
Project No. 6307951

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	Signature
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Contractor Name _____

Signed By _____
(Owner, Partner, or Principal of the Corporation)

Printed Name _____

Title _____

Date _____

7.7.

PERFORMANCE BOND FORM
(Bond Amount to Be Equal to 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 /, 2016, to complete Project No. 6307951, 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 Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of the Contract during the original term of the Contract and any extension of the Contract, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of the Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

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

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

DATED this _day of ____, 2016.

_____

PRINCIPAL SEAL

By:_____

_____

*SURETY SEAL

By:_____

_____

AGENCY ADDRESS

*Surety hereby acknowledges it holds a certificate of authority to transact surety business in the State of Arizona, issued by the director of the department of insurance pursuant to Title 20, Chapter 2, Article 1, Arizona Revised Statutes.

7.8.

PAYMENT BOND FORM

(Bond Amount to Be Equal to 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 /, 2016, to complete Project No. 6307951, 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 Principal promptly pays all monies due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in the Contract, this obligation is void. Otherwise it remains in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of title 34, chapter 2, article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of title 34, chapter 2, article 2, Arizona Revised Statutes, to the same extent as if they were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

DATED this _____day of _____, 2016.

_____
PRINCIPAL SEAL

By:_____

_____
*SURETY SEAL

By:_____

_____
AGENCY ADDRESS

*Surety hereby acknowledges it holds a certificate of authority to transact surety business in the State of Arizona, issued by the director of the department of insurance pursuant to Title 20, Chapter 2, Article 1, Arizona Revised Statutes.

7.9.

UNCONDITIONAL WAIVER AND RELEASE FOR CONTRACTOR'S PAYMENT AND SETTLEMENT OF CLAIMS

Upon receipt of payment from the City of Tempe, the undersigned:

Contractor's Name: _____

Contractor's Address: _____

The undersigned has been paid and acknowledges having received final payment from the City of Tempe in the amount of $_____ [state dollar amount for final, total contract amount] for full and final payment of all work, services, equipment, labor, skill, and material furnished, delivered, and performed by the undersigned for the City or anyone in the construction [or other services] for **RENOVATION AND INFRASTRUCTURE IMPROVEMENTS – MCCLINTOCK SWIMMING POOL** and **PROJECT NO. 6307951** at the location of 1830 East Del Rio Drive; and does hereby waive and release any and all rights to mechanic's liens, any state or federal statutory bond right, any private bond right, any claim for payment, and any and all rights under any applicable federal, state, or local laws related to claim or payment rights for persons in the undersigned's position held on the above-referenced project against the City of Tempe, for this value received. The undersigned further agrees to defend, indemnify, and hold harmless the City of Tempe against any and all liens, claims, suits, actions, damages, charges, and expenses whatsoever, which the City may incur, arising out of the failure of the undersigned to pay in full for all work, services, equipment, labor, skill, and material furnished with regard to the project.

The undersigned, in consideration of the payment acknowledged, hereby warrants that he/she has already paid or will pay using the monies received from this final payment to promptly pay in full all of his contractors, subcontractors, laborers, materialmen, and suppliers for all work, materials, equipment, or services provided to the above-referenced project.

_____ _____

Contractor Signature Date

_____

By (Print Name and Title)

Notice: This document waives rights unconditionally and states that you have been paid for giving up those rights. This document is enforceable against you if signed, even if you have not been paid. If you have not been paid in full, use a conditional release form.

[NOTARY SEAL TO FOLLOW]

STATE OF ARIZONA)
COUNTY OF MARICOPA)

On ____ day of _____, 2016, _____ personally appeared before me, and proved by lawful identification documents to be the person who signed the preceding document in my presence, and who affirmed to me that the contents therein are truthful and accurate to the best of his/her knowledge and belief.

Notary Seal

_____
Notary Public

_____
Printed Name

My Commission Expires:

_____

AFFIDAVIT OF GENERAL CONTRACTOR / PRIME CONSULTANT
REGARDING
HEALTH INSURANCE

Chandler, Arizona

Date 09/22/2016

RENOVATION AND INFRASTRUCTURE IMPROVEMENTS – MCCLINTOCK SWIMMING POOL
PROJECT NO. 6307951

I hereby certify that SUN EAGLE CORPORATION (name of company) currently has, and all of its major subcontractors/subconsultants, defined as doing work in excess of $30,000, will have, during the course of this Contract, health insurance for all employees working on this project and will offer health insurance coverage to eligible dependents of such employees, as defined in the accompanying Guidelines. The company's health insurance is as follows:

Name of Insurance Company: UNITED HEALTHCARE

Type of Insurance (PPO, HMO, POS, INDEMNITY): HMO / HSA

Policy No.: 06S1062

Policy Effective Date (MM/DD/YY): 09/01/2016

Policy Expiration Date (MM/DD/YY): 01/01/2018

Signed and dated at Sun Eagle Corp, this 22 day of Sept, 2016.

SUN EAGLE CORPORATION
General Contractor/Prime Consultant

By: Martin Alvarez Sr., CEO

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

SUBSCRIBED AND SWORN to before me this 22nd day of September, 2016.

Laurie A Gordon
Notary Public

[Notary Seal]

OFFICIAL SEAL
LAURIE A. GORDON
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Comm. Expires Oct. 26, 2018

7.11.

CITY OF TEMPE GUIDELINES FOR IMPLEMENTATION OF HEALTH INSURANCE

These Guidelines are provided for purposes of implementing Resolution No. 2000.73, which requires all employees of prime consultants, general contractors and major subconsultants and subcontractors to have health insurance and to offer health insurance to their eligible dependents, as determined at the start of each project. Questions regarding these guidelines should be directed to the City of Tempe Engineering Division at 480-350-8200.

1. All Prime Consultants who enter into a Public Works contract or General Contractors who bid on Public Works projects that are advertised for bid and enter into a contract in excess of $30,000 with the City of Tempe ("City") after January 1, 2001, are required to sign an affidavit in the form attached hereto. The prime consultant or general contractor shall require that all major subconsultants or subcontractors, defined as entities doing work in excess of $30,000, comply with the health insurance requirements. In signing the affidavit, prime consultants and general contractors may refer to and rely upon these Guidelines for interpretation.

2. Health insurance is required for permanent employees who work for the consultant/contractor more than one hundred and twenty (120) days in any calendar year. A "work day" consists of any time within a twenty-four hour period, regardless of number of hours, that the individual is paid. This requirement excludes students working part-time who are enrolled in a recognized educational institution. Many companies have a grace period or a qualifying period prior to commencement of insurance coverage, which is acceptable so long as the employee coverage begins by the 120th day of Contract signing. Temporary employees will be covered to the same extent as City covers temporary employees as determined at the start of each project.

3. If a contractor is a "Union" shop and withholds union dues from employees for health insurance coverage that is also offered to their eligible dependents and meets all City requirements, Contractor may so note on the required affidavit.

4. The health insurance requirements herein apply to all employees that are directly involved with City project including support and administrative personnel.

5. Health insurance coverage must be maintained during the entire time of the Contract, including any warranty periods, with the City.

6. All complaints concerning violations of the health insurance requirements shall be filed by an employee, in writing, with the Public Works Department, within thirty (30) days from discovery of the violation. An administrative hearing will be held before the Public Works Director, and a written decision of findings will be provided to the parties to the hearing within ten (10) days thereafter. Appeal from the decision of the Public Works Director may be made within ten (10) days of the date of the decision by filing a notice

7. In the event of a finding by City of a violation of the insurance provisions, the company in violation of the provision shall be barred from bidding on, or entering into, any public works Contract with City for a minimum period of three (3) years.

8. All consultants and contractors subject to the health insurance requirements shall post, in English and Spanish, notice of the health insurance requirements at their office and at the job site. Signs for posting will be provided by the City.

These "Guidelines for Implementation of Health Insurance" issued and dated this 21st day of August, 2002, hereby amend all guidelines previously issued.

7.12.
PROMPT PAYMENT REQUIREMENTS

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.

7.13.

AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES

A.R.S. § 1-501 and § 1-502 require any individual person or sole proprietor (unincorporated business) who applies to the City for a local public benefit (including the award of a contract) to demonstrate his or her lawful presence in the United States. An individual person or sole proprietor who submits a bid for this contract must complete this Affidavit and submit it with the bid, along with a copy of one of the documents listed below.

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

_____ Print Name

Date: _____

_____ Business/Company (if applicable)

_____ Address

_____ 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

7.14.

AFFIDAVIT OF COMPLIANCE WITH TEMPE CITY CODE CHAPTER 2 ARTICLE VIII SECTION 2-603(5)

Per Tempe City Code Chapter 2 Article VIII Section 2-603(5), it is unlawful for a City vendor or City contractor, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment.

City vendors and contractors of fifteen (15) or more employees shall provide a copy of its antidiscrimination policy to the city's procurement officer to confirm compliance with this article. Employers having fourteen (14) or less employees may attest to compliance with this article.

- CONTRACTOR means any person who has a contract with the City.
- VENDOR means a person or firm in the business of selling or otherwise providing products, materials, or services.

CONTRACTOR/VENDOR, select one:

_____ Current copy of antidiscrimination policy attached

OR

_____ I hereby certify _____ (contractor/vendor) to be in compliance with Tempe City Code Chapter 2 Article VIII Section 2-603(5).

_____ Date: _____

Signature

_____ _____

Print Name Title

_____

Company