

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LAYTON CONSTRUCTION CO., INC**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this _____ day of _____, 20____, between the City of Glendale, an Arizona municipal corporation (the "City"), and Layton Construction Co., Inc., a Utah limited liability company authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

- A. On June 25, 2014, under the S.A.V.E. Cooperative Purchasing Agreement, Maricopa County entered into a contract with Contractor to purchase the goods and services described in the Job Order Contractor for Facilities Management, Contract No. 14007-JOC ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

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

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was June 25, 2014, until the date the contract expires on June 24, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond June 24, 2019. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until June 24, 2017. The City Manager or designee, however, may renew the term of this Agreement for 2 one-year periods until the

Cooperative Purchasing Agreement expires on June 24, 2019. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed three hundred thousand dollars (\$300,000) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.

10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
c/o Vern Baker
6210 W. Myrtle Avenue, Suite 111
Glendale, Arizona 85301
623-930-2679

and

Layton Construction Co., Inc.
c/o David S. Layton
7686 E. Van Buren, Suite 100
Phoenix, AZ 85008
602-840-8655

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

“City”

City of Glendale, an Arizona
municipal corporation

By: _____
Kevin R. Phelps
City Manager

“Contractor”

Layton Construction Co., Inc.,
a Utah Limited Liability Company

By: _____
Name: David S. Layton
Title: CEO

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LAYTON CONSTRUCTION CO., INC**

**EXHIBIT A
MARICOPA COUNTY CONTRACT NO. 14007-JOC
JOB ORDER CONTRACTOR FOR FACILITIES MANAGEMENT
FULL CONTRACT AVAILABLE UPON REQUEST**



JOB ORDER CONTRACTOR (JOC) CONTRACT

MARICOPA COUNTY, ARIZONA

JOB ORDER CONTRACTOR FOR FACILITIES MANAGEMENT

Office of Procurement Services

Serial # 14007-JOC

C-73-14-066-5-00

Facilities Management, Maricopa County Arizona

Division 0 - Bidding & Contract Requirements

<u>Section</u>	<u>Description</u>	<u>Number of Pages</u>
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	Exhibit C – Legal Worker Certification	1
	Exhibit D – Request for Proposal for Task Order	1
	Exhibit E – Performance Bond and Payment Bond Forms	2
	Exhibit F – SBE Reporting Document	1
	Exhibit G – Request for Qualifications dated February 13, 2014	102
	Exhibit H – Statement of Qualifications dated March 7, 2014	29
	Exhibit I – Certificate of Insurance for Job Order Contract	2
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All of the exhibits above are incorporated by reference as though fully set forth herein whether or not physically attached to this contract.

END OF SECTION

SECTION 00500

JOB ORDER CONTRACT

A. EFFECTIVE DATE:



This CONTRACT is entered into by and between the Owner and the Job Order Contractor as Contract No. 14007-JOC, and shall be effective as of June 25, 2014.

B. OWNER:

MARICOPA COUNTY
c/o Facilities Management Department
401 West Jefferson Street
Phoenix, Arizona 85003

C. JOB ORDER CONTRACTOR:

Layton Construction Co., Inc.
4686 Van Buren, Suite 100
Phoenix, AZ 85008
Office: (602) 840-8655; Fax: (602) 840-8646; E-Mail: Dblaser@laytonconstruction.com

D. RECITALS:

The scope of work and specifications for a broad range of services will be identified in individual Task Orders which will be issued by the Owner from time to time. See EXHIBIT D hereto.

NOW THEREFORE, intending to be legally bound and for valuable consideration, the receipt and sufficiency of which are acknowledged, the Owner and Job Order Contractor agree as follows:

E. AGREEMENT:

Article I. THE CONTRACT

1.1 The Task Order and other Contract Documents explained in Section 7.1 below and the definitions which are contained Section 00700, Exhibit A, govern this Job Order Contract.

Article II. THE WORK

2.1 The Job Order Contractor shall execute the entire Work described by each Task Order, including work which is reasonably inferable and necessary to produce the results intended by the Contract and the Task Order.

Article III. CONTRACT TIME

3.1 The Job Order Contractor shall have access to the area of the Work effective from the date of the Notice to Proceed for the assigned Task and shall achieve Substantial Completion and Final Completion of the Work no later than the performance period specified in each Task Order issued. The length of this Contract for services will be for a period of three (3) years with two one-year options to extend the contract, but in no event will this Contract's Term



continue longer than five (5) years from the date of the Contract. The term of this Contract shall not be extended. All Work issued hereunder must be completed in full by the final expiration date of this Contract. Extensions to this Contract for years 4 and 5 may only be made by an amendment signed by both parties. A permission to complete a Task Order that extends into Year 4 or Year 5 does not extend the Contract in its entirety for the additional year.

- 3.2 The Job Order Contractor shall achieve Substantial Completion of the Work (as defined in Section 00700, Article 9.8 herein, and evidenced by a Certificate of Substantial Completion) not later than as specified in each Task Order.
- 3.3 The Job Order Contractor shall achieve (as defined in Section 00700, Article 9.9 herein, and evidenced by a Certificate of Final Completion) no later than as specified in each Task Order.

Article IV. CONTRACT SUM

- 4.1 The Owner shall pay the Job Order Contractor in current funds for the Job Order Contractor's performance of individual Task Orders in an aggregate amount not to exceed Fifteen Million Dollars (\$15,000,000.00) in total, and not to exceed Five Million Dollars (\$5,000,000.00) per Fiscal Year, which Fiscal Year shall be designated by the Owner as beginning on July 1st and ending on June 30th of the next calendar year. The single maximum value of a task issued shall not exceed \$1,000,000.00. The Owner does not guarantee a minimum Contract Sum under this Contract, and Job Order Contractor, in accepting this Contract, does not expect a minimum Contract Sum. Payments will be made in accordance with the sum negotiated for each specific Task Order.

Maricopa County, at its sole discretion, may require the Job Order Contractor to purchase from a specified or designated County supplier (i.e. Home Depot) any and/or all available materials applied or installed by the Job Order Contractor or its subcontractors for a Task Order. The materials purchased by the Job Order Contractor(s), or its subcontractor(s), shall be purchased by the Job Order Contractor(s), or its subcontractor's, using their own funds and/or credit. Any discounts offered to the JOC by the County's material supplier shall be passed through to the County without markup. The County is not a party to these transactions and any issue/disputes shall be resolved without the involvement of the County.

4.2 LABOR PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract renewal. Requests for adjustment in cost of labor must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey. This section covers the positions of Project Manager, Superintendent and Engineer/Coordinator.

4.3 FEE AND OVERHEAD CALCULATIONS FOR CONSTRUCTION COSTS UP TO \$250,000.00

Overhead must be all inclusive and include all "costs of doing business". The County will not pay separately for items such as, but not limited to warranty, project closeout, home office expense, personal safety equipment, safety personnel, unless safety personnel is specifically required for the Work being performed and approved by the Owner. The Job

Order Contractor agrees the overhead shall be no more than 8% and the fee shall be capped at 5%.

4.4 FEE AND OVERHEAD CALCULATIONS FOR CONSTRUCTION OVER \$250,000.00

Overhead must be all inclusive and include all “costs of doing business”. The County will not pay separately for items such as, but not limited to warranty, project closeout, home office expense, personal safety equipment, safety personnel, unless safety personnel is specifically required for the Work being performed and approved by the Owner. Overhead cost and percentages in addition to Job Order Contractor fee(s) shall be negotiated between the Job Order Contractor and the County for any projects exceeding \$250,000.00.

Article V. PROGRESS PAYMENTS

- 5.1** Progress payments will be made in accordance with Article 9 of the General Conditions to the Job Order Contract.

Article VI. FINAL PAYMENT

- 6.1** Final Payment will be made in accordance with Article 9 of the General Conditions to the Job Order Contract.

Article VII. CONTRACT DOCUMENTS

- 7.1** The Contract consists of the following documents incorporated herein by this reference:
- 7.1.1** The Job Order Contract – Section 00500.
 - 7.1.2** The General Conditions to the Job Order Contract – Section 00700.
 - 7.1.3** Permits, Change Orders, Change Directives, amendments or modifications to the Contract.
 - 7.1.4** Any and all documents issued during the procurement process for this Contract.
 - 7.1.5** Task Order documents including, but not limited to, Task Orders, associated plans and specifications.
 - 7.1.6** Any addenda to any issued Task Orders or other Contract documents.
 - 7.1.7** Exhibits to **Section 00700:**
 - Exhibit A – Definitions to the General Conditions
 - Exhibit B – Alternate Dispute Resolution
 - Exhibit C – Legal Worker Certification
 - Exhibit D – Request for Proposal for Task Order
 - Exhibit E – Performance Bond and Payment Bond Forms
 - Exhibit F – SBE Reporting Document
 - Exhibit G – Request for Qualifications dated February 13, 2014
 - Exhibit H – Statement of Qualifications dated March 07, 2014
 - Exhibit I – Certificate of Insurance for Job Order Contract.

Exhibit J – General Requirements for the Job Order Contracts

All of the exhibits listed above are incorporated by reference as though fully set forth, whether or not they are physically attached to this Contract.

- 7.1.8 All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

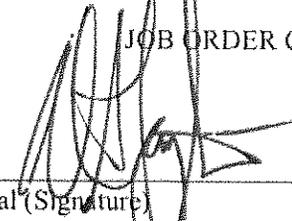
F. STRATEGIC ALLIANCE for VOLUME EXPENDITURES (SAVE):

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

JOB ORDER CONTRACTOR FOR FACILITIES MANAGEMENT
14007-JOC


Principal (Signature)

6/10/14
Date

DAVID S. HAYTON
Printed Name

87-0444863
Federal Tax Identification Number

CEO
Title

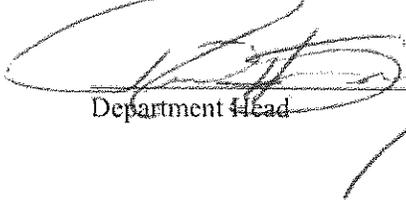
ROC 271722
License Number

Vendor Terms

914-84
NIGP Commodity Code (Advantage)

COUNTY OF MARICOPA, ARIZONA

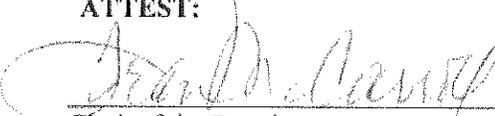
RECOMMENDED BY:


Department Head 6-18-14
Date

ACCEPTED AND APPROVED:


Chairman, Board of Supervisors JUN 25 2014
Date

ATTEST:


Clerk of the Board JUN 25 2014
Date

LEGAL REVIEW

Approved as to form and within the powers and authority granted under the laws of the State of Arizona to Maricopa County.

By: 
Attorney for the Board of Supervisors

Date: 16 June 2014

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SECTION 00700

GENERAL CONDITIONS TO THE CONSTRUCTION CONTRACT

ARTICLE 1: GENERAL PROVISIONS

1.1 DEFINITIONS, CORRELATION AND INTENT

- 1.1.1 Definitions. Unless otherwise provided herein, capitalized terms used in this Contract, and not otherwise defined herein, have the respective meanings set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.
- 1.1.2 Entire Agreement. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral.
- 1.1.3 Contractual Relationship. The Contract shall not be construed to create a contractual relationship of any kind (1) between the Design Professional and the Job Order Contractor, (2) between any Authorized Agent and the Job Order Contractor, (3) between the Owner and a Subcontractor or (4) between any persons or entities other than the Owner and Job Order Contractor. The Job Order Contractor is not a third party beneficiary to any agreement between the Owner and the Design Professional. Performance by the Design Professional of duties under such agreements is solely for the benefit of parties identified as beneficiaries under such agreements.
- 1.1.4 Intent. The intent of the Contract is to include all items necessary for the proper execution and completion of the Work by the Job Order Contractor.
- 1.1.5 Design Professional's Supplemental Instruction. Written interpretations necessary for the proper execution of the Work in the form of a Design Professional's Supplemental Instruction will be issued with reasonable promptness by the Design Professional. Supplemental Instructions may either be instructions, drawings or additional information but shall not change the Contract Sum or Contract Time unless there is a subsequently executed Change Order.
- 1.1.6 Request for Information/Interpretation. The Job Order Contractor shall submit requests for information and/or interpretation of the Contract to the Design Professional or to the Owner's designee, as may be requested by the Owner.
- 1.1.7 Contract Document Order of Precedence. The Drawings, Specifications, Task Orders, and other Contract Documents will govern the Work. The Contract Documents are intended to be complementary and cooperative and to describe and provide for a complete Project. Anything in the Specifications and not on the Drawings, or on the Drawings and not in the Specifications shall be as though shown or mentioned in both.
 - 1.1.7.1 If there is a conflict among Contract Documents, the document highest in precedence shall control. The precedence for the Contract Documents shall be from the most restrictive to the lesser restrictive in the following order:
 - 1.1.7.1.1 The Contract.
 - 1.1.7.1.2 General Conditions.

- 1.1.7.1.3 General Requirements.
 - 1.1.7.1.4 All applicable codes including, but not limited to Building Codes and Permits from agencies required by law.
 - 1.1.7.1.5 Change Orders.
 - 1.1.7.1.6 Contract Specifications.
 - 1.1.7.1.7 Contract Drawings - Material/Equipment Schedules.
 - 1.1.7.1.8 Contract Drawings - Detailed Plans, elevations, sections and isometrics.
 - 1.1.7.1.9 Contract Drawings - General Plans, elevations, sections and isometrics.
 - 1.1.7.1.10 Standard Plans, i.e. standard structural details, devices or instructions referred to on the Plans or Specifications by title or number.
 - 1.1.7.1.11 Reference Specifications, i.e. Test References, etc.
- 1.1.7.2 The Job Order Contractor shall, upon discovering any error or omission in the Drawings or Specifications, immediately notify the Owner in writing.
- 1.1.8 Discrepancies in Contract. If there is any discrepancy, inconsistency, or ambiguity in the quality or quantity of the Work or materials required under the Contract, the Job Order Contractor shall (1) immediately bring such discrepancy, inconsistency, or ambiguity to the attention of the Owner, and (2) provide the better quality of and/or greater quantity of the Work or materials, without an increase in the Task Order Sum, unless otherwise directed in writing by the Owner. If the Owner accepts the lower quality or quantity of Work or materials, the Job Order Contractor shall remit to the Owner the difference in cost between the better quality or greater quantity and such lower quality or lesser quantity. Such remittance shall be in the form of a deductive Change Order as identified in Article 7.1.1.
- 1.1.9 Organization of Specifications and Drawings Not to Control Division of Work. Organization of the Specifications into divisions and sections, and arrangement of Drawings, shall not control the Job Order Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- 1.1.10 Job Order Contractor Solely Responsible for Division of Work. The Job Order Contractor is solely responsible for the division of the Work among Subcontractors. The Owner will not act as arbiter as to which trade or Subcontractor is to furnish or install the various items indicated or required to complete the Work. The Job Order Contractor shall make necessary arrangements to reconcile any and all labor conflicts without delay, damage, or cost to the Owner and without recourse to the Owner. Nothing in this section shall preclude the Owner from specifying that work be done by a specific Sub-Contractor to comply with the Owner's internal policies or requirements.

- 1.1.11 Technical and Industry Meanings. Unless otherwise stated in the Contract, words which have well-known technical or construction industry meanings are used in the Contract in accordance with such recognized meanings.
- 1.1.12 Current Standards. Where a reference in the Contract to an American Society for Testing and Materials Standard (ASTM), American National Standards Institute Standard (ANSI), federal specification, or other recognized standard does not include the date of the standard, the edition current as of the date of the Contract Documents shall apply. No consideration will be given to claimed ignorance as to what a cited standard contains, since the Job Order Contractor and each Subcontractor is considered to be experienced and familiar with the generally accepted, published standards of quality and workmanship for its own trade. Requirements of such referenced standards form a part of the Specifications to the extent indicated by the references thereto.

1.2 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

- 1.2.1 Minor Design Services May Be Required For Some Task Orders. For those Task Orders that may require design services the Job Order Contractor shall consult with the Owner who may retain the services of a registered professional or request Job Order Contractor to retain a Design Professional. This section does not apply to fire protections or pre-fabricated metal structures, or any other exceptions as required by the Owner.
- 1.2.2 All Drawings, Specifications, and copies thereof furnished by or to the Job Order Contractor are and shall remain the property of the Owner. The Drawings and Specifications and the design reflected therein shall be kept strictly confidential and shall not be disclosed or released except as necessary for the performance of the Work. Neither the Job Order Contractor nor any Subcontractor shall own or claim a copyright in the Drawings, Specifications, or other documents. The Owner will retain all common law, statutory, and other reserved rights, in addition to the copyright. The Drawings, Specifications, and other documents prepared by the Job Order Contractor are for use solely with respect to this Project. They are not to be used by the Job Order Contractor or any Subcontractor on other projects, or for additions to this Project outside the scope of the Work, without the specific written consent of the Owner. The Job Order Contractor and its Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents necessary for execution the Work. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's copyright or other reserved rights. Owner hereby releases Job Order Contractor from any and all liability that may arise in connection with the subsequent use of such Drawings and Specifications by the Owner and others. Job Order Contractor and Subcontractors shall not take or disseminate any photographs or videography of parts of the Project or the Project itself without first obtaining written permission of the Owner. This section shall not apply in the instance of the Job Order Contractor or Subcontractors utilizing pictures or videography internally in order to perform the Work.

ARTICLE 2: OWNER

2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

- 2.1.1 The Owner shall furnish, for information purposes only, a copy of existing site information and conditions and shall also furnish any Plans and Specifications needed to construct the Project, if such have been prepared.
- 2.1.2 Communication with Job Order Contractor. The Owner shall forward all communications to the Job Order Contractor.
- 2.1.3 Aesthetic Decisions. The Owner's decisions on matters relating to aesthetic effect will be final.

2.2 OWNER'S RIGHT TO STOP THE WORK

- 2.2.1 If the Job Order Contractor fails to perform or correct Work which is not in accordance with the requirements of the Contract, or does not allow other contractors to timely perform their work, the Owner may order the Job Order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Job Order Contractor or any other person or entity.

2.3 OWNER'S RIGHT TO CARRY OUT THE WORK

- 2.3.1 The Owner shall have the right to contact the Job Order Contractor's Surety if the Owner determines that the Job Order Contractor is not performing in accordance with the Contract. If the Job Order Contractor defaults or neglects to carry out the Work in accordance with the Contract, or fails to commence and continue correction of such default or neglect with diligence or promptness, the Owner may, after forty eight (48) hours written notice to the Job Order Contractor and its Surety, require the Surety to promptly assume the obligations of the Contract. Should the Surety fail to assume the obligations within five (5) days after receipt of the written notices then Owner, without prejudice to any other remedy it may have, may correct such nonconforming Work. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Job Order Contractor or the Surety all costs of correcting such nonconforming Work, including but not limited to, compensation for additional services made necessary by such default, neglect, or failure. If the payments then or thereafter due the Job Order Contractor or its Surety are not sufficient to cover such amount, the Job Order Contractor or its Surety shall pay the difference to the Owner within thirty (30) days after receipt of the Owner's invoice.

ARTICLE 3 JOB ORDER CONTRACTOR

3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY JOB ORDER CONTRACTOR

- 3.1.1 Notice of Errors. The Job Order Contractor warrants that he has carefully reviewed the Contract, and all documents pertaining to the Work, and that he is satisfied as to the feasibility and correctness of the Contract to perform the Work within the Contract Time. The Job Order Contractor shall immediately report to the Owner any errors,

inconsistencies, or omissions discovered in the Contract Documents prior to submitting its Proposal. Any error, inconsistency, or omission which could have been discovered prior to submitting its Proposal are waived unless reported in written form to the Owner before submitting its Proposal. If the Job Order Contractor performs any construction activity containing an error, inconsistency, or omission that the Job Order Contractor recognized or should have recognized through the exercise of reasonable diligence, without reporting such error, inconsistency, or omission to the Owner, the Job Order Contractor shall assume responsibility for such performance and shall bear the costs for correction.

- 3.1.2** Examination of Site. The Job Order Contractor warrants that he has visited and examined the character of the Site and any existing structures and has satisfied himself as to the nature of the Work and all matters which could in any way affect the Work. The Job Order Contractor warrants that he has reviewed the geotechnical report, if any, included in the Proposal Documents. The Job Order Contractor shall take field measurements and verify field conditions and shall compare such field measurements and conditions and other information known to the Job Order Contractor with the Contract before commencing the Work. Errors, inconsistencies, or omissions discovered shall be reported to the Owner prior to submitting its Proposal. Any error, inconsistency, or omission which could have been discovered by the Job Order Contractor prior to submitting its Proposal are waived unless reported in written form to the Owner before submitting its Proposal. The accuracy of grades, elevations, dimensions, or locations on work installed by other contractors is not guaranteed by the Owner. The Job Order Contractor shall verify the accuracy of all grades, elevations, dimensions, and locations relating to the Work. In cases of interconnection of the Job Order Contractor's Work with other work, it shall verify at the Site all dimensions relating to such other work. Any error due to the Job Order Contractor's failure to verify the accuracy of such grades, elevations, location, or dimensions shall be promptly rectified by the Job Order Contractor without any additional cost to the Owner.
- 3.1.3** Job Order Contractor License. The Job Order Contractor warrants (1) that it is licensed under the laws of the State of Arizona to perform the Work at the time of Proposal submission, and (2) that it is familiar with and will comply with all applicable laws, statutes, ordinances, building codes, rules and regulations, and lawful orders of public authorities in performing the Work, including, but not limited to, environmental laws and A.R.S. Title 34, as amended.
- 3.1.4** Contract Compliance with Law. If the Job Order Contractor observes that portions of the Contract are at variance with applicable laws, statutes, ordinances, building codes, or rules and regulations, the Job Order Contractor shall promptly notify the Owner in writing, and necessary changes shall be accomplished by appropriate modification of the Work. If the Job Order Contractor performs Work it knows or should know to be contrary to laws, statutes, ordinances, building codes, or rules and regulations without such notice to the Owner, the Job Order Contractor shall assume full responsibility for such Work and shall bear all damages, losses, costs, and expenses attributable thereto.
- 3.1.5** Job Order Contractor Compliance with Contract. The Job Order Contractor shall perform the Work in accordance with the Contract and in a first class and workmanlike manner. In the event that the Job Order Contractor fails to do so, the Owner may withhold payments to protect the Owner from loss, regardless of whether payment has previously been made for the Work in question.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

- 3.2.1 Job Order Contractor to Supervise Work. The Job Order Contractor shall supervise and direct the Work using the Job Order Contractor's best skill and attention. The Job Order Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, safety, and procedures associated with its Work and for coordinating all portions of the Work under this Contract.
- 3.2.2 Acts and Omissions. The Job Order Contractor shall be responsible to the Owner for acts and omissions of the Job Order Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Job Order Contractor.
- 3.2.3 Duty to Perform. The Job Order Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract either by activities or duties of the Owner in their administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Job Order Contractor.
- 3.2.4 Duty to Inspect. The Job Order Contractor shall inspect portions of the Project related to the Job Order Contractor's Work in order to determine that such portions are in proper condition to receive subsequent Work.
- 3.2.5 Limitation on Liability. Job Order Contractor acknowledges that neither the Owner nor any of their respective agents, employees, successors, or assigns shall control the day-to-day operations of the Job Order Contractor and shall not determine construction means, methods, techniques or procedures, or safety precautions and programs in connection with the Work. Job Order Contractor agrees that neither the Owner nor any of their respective agents, employees, successors, or assigns shall be responsible for the failure of the Job Order Contractor to perform the Work in accordance with the Contract or with the laws, ordinances, rules, permit conditions, regulations, or lawful orders of any governmental agency having regulatory authority over the manner, methods, or means of performance of the Work.
- 3.2.6 Site Protection. The Job Order Contractor shall be responsible for all site protection and security needed during construction.

3.3 COST PROPOSALS AND SCHEDULE OF VALUES

- 3.3.1 The Job Order Contractor shall submit to and have accepted by the Owner, a schedule detailing values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. (See JOC Cost Proposal and Schedule of Values form, attached hereto as an Exhibit).
- 3.3.2 The following costs are not eligible for reimbursement pursuant to this Contract and shall not be included in any JOC cost proposal, unless otherwise authorized by the Owner in writing in advance.
 - 3.3.2.1 Cellular telephones
 - 3.3.2.2 Work vehicles
 - 3.3.2.3 Mileage
 - 3.3.2.4 Team building exercises
 - 3.3.2.5 Safety rewards

- 3.3.2.6 Meals/entertainment
- 3.3.2.7 Travel expenses,

3.3.3 For all CSI division on the JOC Cost Proposal and Schedule of Values, the following scale shall be used when receiving Sub-Contractor quotes for work:

- \$0 - \$18,000 - 1 Subcontractor Quote Required
- \$18,001 - \$50,000 - 2 Subcontractor Quotes Required
- \$50,001 - \$999,999 - 3 Subcontractor Quotes Required

3.3.4 For self-performed work over \$18,001, one additional Subcontractor Quote will be required. For self-performed work over \$50,001, two additional Subcontractor Quotes will be required.

3.3.5 The Task Order consists of both the Notice to Proceed and the Purchase Order. No Work is to begin on any Project unless both documents have been issued.

3.4 LABOR AND MATERIALS

3.4.1 Job Order Contractor to Provide.

3.4.1.1 The Job Order Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, storage, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.1.2 The Job Order Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities specified in the Task Order for which it is issued a Task Order Notice to Proceed in accordance with this Agreement. The County may determine it is in its best interest to furnish materials and equipment for a specific Task Order in accordance with the Task Order.

3.4.2 Skilled Labor. The Job Order Contractor shall enforce strict discipline and good order among the Job Order Contractor's employees and other persons carrying out the Contract. The Job Order Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. At the sole discretion and opinion of the Owner, the Job Order Contractor agrees to remove from the site any employee of the Job Order Contractor, Subcontractor, or other person performing under the scope of Work, upon notification by the Owner that any employee does not meet the requirements of this paragraph.

3.4.3 Standard of Quality. Wherever materials, products, articles, equipment, systems, or similar items are identified by reference to proprietary terms or by a similar reference, it is intended to establish the minimum standard or measure of quality that has been determined as requisite or intended for the Work.

3.4.4 Trade Names or Equals. The Job Order Contractor shall supply materials, processes, or equipment specified, or a prior approved equal. Whenever any particular material, process, or equipment is indicated by patent, proprietary or brand name, or by name of manufacturer, such wording is used for the purpose of facilitating its description and shall

be deemed to be followed by the words "or prior approved equal"; unless such material, process, or equipment is specifically indicated as "proprietary". A listing of materials or equipment is not intended to be comprehensive, or in any order of preference.

3.5 SUBSTITUTION OF PRODUCTS

- 3.5.1 Requests for Substitutions. After the Contract has been executed, the Owner may consider, but shall have no obligation to consider, a formal request for the substitution of products in place of those specified under the conditions set forth in Section 012500 of the General Requirements. The decision in the first instance on acceptance or rejection of proposed alternate, substitute or similar materials, products, equipment, or systems shall be vested with the Owner, whose decision shall be final and binding.
- 3.5.2 Conditions for Substitutions. By making requests for substitutions, the Job Order Contractor (1) represents that the Job Order Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified, (2) represents that the Job Order Contractor will provide the same warranty for the substitution that the Job Order Contractor would for that specified, (3) certifies that the cost data presented is complete and includes all related costs under the Contract, and waives all claims for additional costs related to the substitution which subsequently become apparent, and (4) will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
- 3.5.3 Criteria for Acceptance or Rejection of Substitutes. Acceptance or rejection of proposed alternate, substitute, or similar materials, products, equipment, or systems for use may be based on the construction, design, function, type, size, capacity, performance, strength, durability, finish, aesthetic quality, schedule constraints, redesign costs, the Owner's standard for repair, replacement, and maintenance, or other characteristics or criteria approved by the Owner.
- 3.5.4 Expense for Modification. Any modification to the Contract or Work necessary as a result of the use of an approved alternate or substitute shall be paid by the Job Order Contractor proposing the substitution.
- 3.5.5 Rejection of Substitute. If any alternate or substitute is not approved, the Job Order Contractor shall use the specified material, product, equipment, or system without adjustment to the Contract Sum or Contract Time.

3.6 WORK HOURS

- 3.6.1 Unless otherwise provided in the Task Order, Work shall be performed during regular working hours. Notwithstanding the foregoing, in the event of emergency or when required to complete, the Work may be performed on night shifts, overtime, weekends, or holidays, provided that permission to do so has been obtained from the Owner and confirmed in writing by the Owner twenty-four (24) hours prior to the commencement of such Work. The Job Order Contractor will not be entitled to additional compensation for Work performed outside of regular working hours, except to the extent such compensation is approved by the Owner in advance. If so approved, such compensation shall in such event cover only the direct cost of the premium portion of the time involved and not overhead and profit. In no event will Job Order Contractor be entitled to additional compensation for Work performed outside regular hours where occasioned by delays, need for repairs, or other causes attributable to Job Order Contractor or its Subcontractors, or to concurrent delay. Notwithstanding the foregoing and unless

overtime has been requested by the Owner, the Job Order Contractor shall bear all costs of standby contractors, if any. In the event the Job Order Contractor performs any of the Work on night shifts, overtime, weekends, or holidays, the Job Order Contractor shall comply with all laws, ordinances, codes, rules, and regulations applicable thereto (including, without limitation, those relating to noise).

3.7 WARRANTY

- 3.7.1** Free from Defects. The Job Order Contractor warrants to the Owner that (1) materials and equipment furnished under this Contract will be of first quality and new, (2) the Work will be free from defects, and (3) the Work will conform with the requirements of the Task Order. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective. This warranty is in addition to and not limited by the provisions of Article 12.2. The warranty period is one (1) year from Substantial Completion unless otherwise stated in the Contract documents.
- 3.7.2** Key System. During the warranty period in the event that any of the key systems in the Project are not functioning properly, the Job Order Contractor will repair those systems within 24 hours of written notice by the Owner. Key systems are defined in the General Requirements.
- 3.7.3** Assignment of Warranties. The Job Order Contractor shall assign to the Owner, before Substantial Completion is due, all manufacturer's warranties relating to equipment, materials, and labor used in the Work.

3.8 TAXES

- 3.8.1** The Task Order Sum includes and the Job Order Contractor shall pay any and all sales, consumer, use, transaction privilege, and similar taxes on all monies owed for the Work or portions thereof provided by the Job Order Contractor.

3.9 PERMITS AND FEES

- 3.9.1** Permits and Fees. The Owner shall secure and pay for the building permits, plan check fees, and development fees required from both Maricopa County and the authority having jurisdiction. The Job Order Contractor shall secure and pay for all other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work. Job Order Contractor is required to comply with all Job Order Contractor-secured permit requirements at no additional cost to Owner.
- 3.9.2** Permit Set Copies. Job Order Contractor is required to provide Owner with three (3) copies of all permit sets (hard copy and electronic pdf copy) acquired by Job Order Contractor from any issuing entity, within two (2) business days from acquisition.

3.10 JOB ORDER CONTRACTOR KEY PERSONNEL

- 3.10.1** On Site. The Job Order Contractor shall employ competent key staff as indicated in other Articles who shall be in attendance at the Site during performance of the Work. The competent project representative shall represent the Job Order Contractor, and communications given to the competent project representative shall be as binding as if given to the Job Order Contractor. Important communications shall be confirmed in writing by the Job Order Contractor.

- 3.10.2** Satisfactory to Owner. The Job Order Contractor's competent project representative and staff must be satisfactory to the Owner. The Job Order Contractor, three (3) days prior to the Preconstruction Conference, shall submit to the Owner the names and resumes of the competent project representative and key staff as indicated in other Articles which Job Order Contractor proposes to use for the Work. The competent project representative and key members of the Job Order Contractor's staff shall not change without the prior consent of the Owner. However, the Job Order Contractor agrees to change any competent project representative or member of the Job Order Contractor's staff at the request of the Owner, if in the opinion of the Owner, such person's performance is unsatisfactory.
- 3.10.3** Job Order Contractors Required to Attend Meetings. The Owner will call for meetings of the Job Order Contractor and Subcontractors as it deems necessary. Such meetings shall be held at or near the Site, on regular working days during regular working hours, unless otherwise directed by the Owner. Attendance shall be mandatory for all parties notified to attend, and the Job Order Contractor and Subcontractors so notified are required to have a responsible member of their organizations with full decision making authority in attendance.

3.11 JOB ORDER CONTRACTOR'S SCHEDULES

- 3.11.1** Job Order Contractor Construction Schedule. The Job Order Contractor shall submit to the Owner, the Construction Schedule for the Work ("Job Order Contractor Construction Schedule"). Such Schedule (1) shall not exceed time limits as identified in the Task Order, (2) shall be updated and submitted as often as directed and in a format acceptable to the Owner, and (3) shall provide for expeditious and practicable execution of the Work. Pursuant to (1) above, Job Order Contractor shall make no claim for delay against the Owner for any Owner-caused delay within the Task Order Time.
- 3.11.2** Job Order Contractor shall include a total number of weather related days for the project within the final baseline construction schedule. If delay occurs due to weather related conditions, the Job Order Contractor shall submit a request for the number of days to the Owner for approval within 5 calendar days. Claims for delay due to weather will be deducted from the total number of days approved in the final baseline construction schedule.
- 3.11.3** Updated Schedules. The updated Job Order Contractor Construction Schedule shall not exceed time limits current under the Contract and shall be in accordance with and fully coordinated with all information previously supplied to the Job Order Contractor. Updated schedules shall be submitted as requested.
- 3.11.4** Scheduling Cooperation. The Job Order Contractor shall cooperate with the Owner in providing information and clarification as required to understand the Schedule and performance of the Job Order Contractor's Work to avoid conflict, delay in, or interference with the work of other contractors or the construction or operations of the Owner's own forces.
- 3.11.5** Conform to Most Recent Schedule. The Job Order Contractor shall conform to the most recent Schedule.
- 3.11.6** Selection of Products. Job Order Contractor shall, at the time of submittal of the Job Order Contractor Construction Schedule, advise the Owner of the date when the final

selection and purchase of each product or system described by an Allowance must be completed to avoid delaying the Work.

- 3.11.7 Compliance with Schedules. The Job Order Contractor shall be responsible for all costs resulting from its lack of diligence or failure to provide needed labor or materials to meet the requirements of the Task Order. Owner may withhold payments to Job Order Contractor if requested to do so by Job Order Contractor's Surety, or if otherwise necessary to protect the Owner from delay or expense occasioned by the Job Order Contractor's failure to perform under the Contract.

3.12 DOCUMENTS AND SAMPLES AT THE SITE

- 3.12.1 Job Order Contractor to Maintain. The Job Order Contractor shall maintain at the Site for the use of the Owner, one copy of all Drawings, Specifications, Bulletins, Addenda, Change Orders, Field Orders, reviewed Shop Drawings, Design Professional's Supplementary Instructions, Requests for Information/Interpretation, and other Contract-related documents and their modifications, if any, in good order and marked promptly by the Job Order Contractor to record all approved changes made during construction. The Job Order Contractor shall also maintain all available catalog data, price lists, manufacturer's operating and maintenance instructions, schematics, certificates, warranties, guarantees, and other documents as noted in the Construction Documents.
- 3.12.2 Record Documents. The Job Order Contractor shall provide the Owner with Record Documents as a condition of Substantial Completion and they must be updated and finalized before Final Application for Payment. The Job Order Contractor shall stamp and sign a certification statement on each Drawing and page thereof that the Record Documents, as submitted, are true and complete. Any changes after Substantial Completion shall be provided prior to Final Payment Application. Record Documents shall be updated daily and shall include approved changes and any field changes made by the Job Order Contractor. Accurate, updated Record Documents shall be a condition of approval of monthly and final Application for Payment.
- 3.12.3 Preparation of Manuals. Before Substantial Completion, the Job Order Contractor shall furnish to the Owner two (2) sets of hard copy manuals and/or two (2) sets of electronic copy manuals in PDF format on Recorded Compact (CD) disks containing the manufacturers' instructions for maintenance and operation of each item of equipment and apparatus furnished under the Contract and any additional data requested under the Specifications for each division of the Work. The manuals shall be indexed and bound or labeled in a manner acceptable to Owner. Warranties related to the Project shall be provided as required under Article 3.6 above.

3.13 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 3.13.1 Not Part of Contract. Shop drawings, product data, samples, and similar submittals are not part of the Contract. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Job Order Contractor proposes to conform to the information given and the design concept expressed in the Contract.
- 3.13.2 Prompt Submittal. The Job Order Contractor shall submit shop drawings, product data, samples, and similar submittals required by the Contract in accordance with General Requirements Sections 013216 and 013300 and with such promptness as to cause no delay in the Job Order Contractor's own Work or in that of any other contractor. The Job

Order Contractor shall cooperate with the Owner in the coordination of the Job Order Contractor's shop drawings, product data, samples and similar submittals with related documents submitted by other contractors. Submittals made by the Job Order Contractor which are not required by the Contract may be returned without action.

- 3.13.3 Review Required. The Job Order Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples, or similar submittals until the submittal has been reviewed by the Owner. Such Work shall be performed in accordance with reviewed submittals.
- 3.13.4 Representations Made by Submittals. By approving and submitting shop drawings, product data, samples, and similar submittals, the Job Order Contractor represents that the Job Order Contractor has determined and verified materials, field measurements, and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract.
- 3.13.5 Effect of Review. The Job Order Contractor shall not be relieved of responsibility for deviations from requirements of the Contract by the Owner's or Design Professional's review of shop drawings, product data, samples, or similar submittals unless the Job Order Contractor has specifically informed Owner in writing of such deviation at the time of submittal and the Owner have given written approval to the specific deviation. The Job Order Contractor shall not be relieved of responsibility for errors or omissions in shop drawings, product data, samples, or similar submittals by the review thereof.
- 3.13.6 Revisions to Submittals. The Job Order Contractor shall direct specific attention, in writing or on resubmitted shop drawings, product data, samples, or similar submittals, to revisions other than those requested by the Owner on previous submittals.
- 3.13.7 Informational Submittals. Informational submittals upon which the Owner are not expected to take responsive action shall be so identified in the submittals.
- 3.13.8 Professional Certification. When professional certification of performance criteria of materials, systems, or equipment is required by the Contract, the Owner shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.14 USE OF SITE

- 3.14.1 Limits on Use. The Job Order Contractor shall confine operations at the Site to areas permitted by law, ordinances, permits, and the Owner and shall not unreasonably encumber the Site with materials or equipment. Only materials and equipment which are to be used directly in the Work shall be brought to the Site. After equipment is no longer required for the Work, it shall be promptly removed from the Site. See Articles 4.1.1, 6.1.1, and 6.2.1 for requirements governing concurrent Site use.
- 3.14.2 Owner Approval. The Job Order Contractor shall coordinate the Job Order Contractor's operations with, and secure the approval of, the Owner before using any portion of the Site.
- 3.14.3 Display of Signs. The Job Order Contractor shall not display on or about the Site any sign, trademark, or other advertisement without the consent of the Owner.

- 3.14.4 Equipment Location. The Job Order Contractor's field offices, shanties, materials, storage rooms, hoists elevators, etc., if any, will be placed in locations approved by the Owner. When it becomes necessary, due to the progress of the Project, for the Job Order Contractor to relocate the Job Order Contractor's field operations; such relocation will be approved by the Owner and be accomplished in an expeditious manner with no increase in the Contract Sum.
- 3.14.5 Security. The Job Order Contractor's use of the Site is governed by Task Order requirements, if such requirements are included in the Task Order.

3.15 CUTTING AND PATCHING

- 3.15.1 Job Order Contractor Responsible. The Job Order Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly with other work.
- 3.15.2 Consent Required. The Job Order Contractor shall not damage or endanger work performed by the Owner or other contractors by cutting, patching, excavating, or otherwise altering such construction. The Job Order Contractor shall not cut or otherwise alter work performed by the Owner or other contractors except with written consent of the Owner, and such other contractors; such consent shall not be unreasonably withheld. The Job Order Contractor shall not unreasonably withhold from the other contractors or the Owner the Job Order Contractor's consent to cutting or otherwise altering the Work.

3.16 CLEAN UP

- 3.16.1 Daily Clean Up. The Job Order Contractor shall, on a daily basis, clean up after its operation by removing rubbish, including old and surplus materials. The Job Order Contractor shall use its best efforts to prevent dust. All waste materials, rubbish, and debris resulting from Job Order Contractor's Work shall be removed regularly from the Site, minimum once a week, and disposed in accordance with federal, state, and local laws. The Job Order Contractor shall not allow or permit the accumulation of waste, materials, or equipment that may impede or interfere with the safe production of work or with safe access or egress to the work areas, or impede in any way the ongoing Owner operations.
- 3.16.2 Final Clean Up. At the completion of the Work, the Job Order Contractor shall remove all its waste materials and rubbish from and about the Site as well as all its tools, construction equipment, machinery, and surplus materials. The Job Order Contractor shall professionally wash and clean all surfaces and leave the Work neat and clean, ready for occupancy by the Owner, unless higher cleaning standards are required elsewhere in the Contract. The Job Order Contractor shall be responsible for the overall cleanliness and neatness of the Work.
- 3.16.3 Failure to Clean Up. If the Job Order Contractor fails to perform regular daily cleanup or to clean up at the completion of the Work as specified, the Owner may do so or cause such Work to be performed, with the cost paid for by the Job Order Contractor. The Owner shall have the right to retain such costs from payments due Job Order Contractor and reduce the Task Order Sum by Task Order Modification.
- 3.16.4 Clean Up Disputes. If a dispute arises between the Job Order Contractor and other contractors not a party to this Contract as to their responsibility for cleaning up as required by this Article 3.15, or elsewhere in the Contract, the Owner may clean up and

equitably charge the cost thereof to the several contractors. The Owner shall have the right to retain such costs from payments due Job Order Contractor and reduce the Task Order Sum by Task Order Modification.

3.17 ACCESS TO WORK

3.17.1 The Job Order Contractor shall provide the Owner access to the Work in preparation and progress wherever located. The Job Order Contractor shall provide facilities for such access so that the Owner may perform its functions under the Contract.

3.18 ROYALTIES AND PATENTS

3.18.1 Job Order Contractor Responsibility. The Job Order Contractor shall pay all royalties and license fees applicable to the Job Order Contractor's Work. The Job Order Contractor shall indemnify, defend, and hold harmless the Indemnitees from any and all suits, demands, or claims for infringement of any patent rights unless a particular design, process, or product is specified in the Contract. If such specification is made and the Job Order Contractor has reason to believe it is an infringement of a patent, the Job Order Contractor shall be responsible for any loss arising therefrom unless the Job Order Contractor promptly notifies the Owner prior to performing any portion of the Work involving the patented item.

3.18.2 Effect of Review by Owner. The review by the Owner of any method of construction, invention, appliance, process, article, device, or material of any kind shall not constitute an approval thereof for use by the Job Order Contractor in violation of any patent or other rights of any third party.

3.18.3 After the Contract has been executed, the Owner and Design Professional may consider, but shall have no obligation to consider, Value Engineering Proposals. The decision in the first instance on acceptance or rejection of a Value Engineering Proposal for a proposal to use similar materials, products, equipment or systems shall be vested in the Design Professional, and ultimately with the Owner, whose decision shall be final and binding. If the submission of Value Engineering Proposals will be considered under this Contract, Specific General Requirements Section 012413 will be included in the Contract Documents.

ARTICLE 4 ADMINISTRATION AND RESOLUTION OF DISPUTES

4.1 ADMINISTRATION OF THE CONTRACT

4.1.1 Concurrent Site Use. The Owner will provide for coordination of the activities of other contractors and of the Owner's own forces with the Work of the Job Order Contractor, who shall cooperate with them. The Owner will schedule and coordinate all contractors with respect to their use of the Site. The Job Order Contractor shall participate with other contractors and the Owner in reviewing their construction schedules when directed to do so. The Job Order Contractor shall make any revisions to the Job Order Contractor Construction Schedule deemed necessary by the Owner.

4.1.2 The Owner will not have control over or change of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Job Order Contractor's responsibility.

4.2 CLAIMS AND DISPUTES

- 4.2.1** Time Limits on Claims. Claims by the Job Order Contractor must be made within the number of days specified herein after the occurrence of the event giving rise to such Claim or after the Job Order Contractor should have recognized, in the exercise of due diligence, the condition giving rise to such Claim. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Task Modification will not be considered unless submitted in a timely manner.
- 4.2.2** Continuing Contract Performance. Pending final resolution of a Claim, including Alternative Dispute Resolution as provided for in Exhibit B of this document, the Job Order Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract other than amounts in dispute.
- 4.2.3** Claims for Concealed or Unknown Conditions. If conditions are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract, (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent at the Site, and (3) could not have been discovered by a thorough inspection and investigation of the Site by the Job Order Contractor, the Job Order Contractor shall give written notice within twenty-four (24) hours of such to the Owner. The Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Job Order Contractor's cost of, or time required for, performance of any part of the Work, may arrange for an equitable adjustment in the Task Order Sum or Task Order Time, or both. If the Owner determines that the conditions at the Site are not materially different from those indicated in the Contract and that no change in the terms of the Contract is justified, the Owner shall so notify the Job Order Contractor in writing, stating the reasons. Claims by the Job Order Contractor in opposition to such determination must be made within five (5) days after the Owner has given notice of the decision.
- 4.2.4** Claims for Additional Cost.
- 4.2.4.1** Notice Prior to Execution of Work. If the Job Order Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided in Article 4.2.4.2 shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Article 10.3. If the Job Order Contractor believes additional cost is involved for reasons including, but not limited to, (1) a written interpretation from the Owner, (2) an order by the Owner to stop the Work where the Job Order Contractor was not at fault, (3) a written order for a minor change in the Work, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension, or (7) other reasonable grounds, Claim shall be filed in accordance with Article 4.2.4.2.
- 4.2.4.2** Five Days After Occurrence. If the Job Order Contractor wishes to make a Claim for an increase in the Contract Sum, the Job Order Contractor shall give the Owner written notice thereof within five (5) days after the occurrence of the event giving rise to such Claim or within fourteen (14)

days after the Job Order Contractor should have recognized, in the exercise of due diligence, the condition giving rise to such Claim. The Job Order Contractor shall provide such notice before proceeding to execute the Work. Claim with respect to an emergency shall be made not later than three (3) days after occurrence of the emergency as to which the Work was performed.

4.2.4.3 Waiver of Claim for Additional Cost. Failure to give notice of a Claim for an increase in the Task Order Sum in strict compliance with the requirements of this Article 4.2.4 shall constitute a waiver of such Claim.

4.2.4.4 Claims Against Owner's Authorized Agent. If the Job Order Contractor wishes to make a Claim or allegation based upon actions or omissions of the Owner's designated Authorized Agent in any way related to or touching on the activities, events, losses, or expenses set forth in a Claim presented pursuant to this Article 4, such Claim shall be set forth and reasonably described in the notice required by Article 4.2.4.1. Failure to set forth and describe such Claim or allegation in such notice shall constitute a waiver of such Claim against the Owner's Authorized Agent. Claim shall be made within fourteen (14) days after the occurrence of the event giving rise to such Claim or within fourteen (14) days after the Job Order Contractor should have recognized, in the exercise of due diligence, the condition giving rise to such Claim.

4.2.5 Claims for Additional Time.

4.2.5.1 Estimate of Cost and Delay. If the Job Order Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided in Article 4.2.5.4 shall be given. The Job Order Contractor's Claim shall include an estimate of cost, analysis of Schedule and impact on critical path, and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

4.2.5.2 Adverse Weather. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal (pursuant to NOAA) for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.2.5.3 Critical Path. No extension of time shall be granted to the Job Order Contractor for a delay caused by the Owner, any of the other contractors, or other causes beyond the Job Order Contractor's control, unless the delay affects the critical path of the Project, and then only to the extent that the delay affects the critical path. No extension of time shall be granted to the Job Order Contractor to the extent that, notwithstanding the existence of any such circumstance beyond the Job Order Contractor's control, delay would have resulted in any event due to a concurrent unexcused delay by the Job Order Contractor.

4.2.5.4 Notice of Claim for Additional Time. Should the Job Order Contractor contend that it is entitled to an extension of time for completion of any portion or portions of the Work, the Job Order Contractor shall, within seven (7) days of the occurrence of the cause of the delay, notify the Owner, in writing, of its Claim, setting forth (1) the cause of the delay, (2) a description

of the portion or portions of Work affected by the delay, (3) the specific number of days of delay for which an extension of time is requested, and (4) all details pertaining thereto. Within five (5) Business Days after the expiration of any such delay, if such delay continues after the filing of the Claim pursuant to the foregoing sentence, the Job Order Contractor shall deliver to the Owner a subsequent written application for the specific number of days of extension of time requested.

4.2.5.5 Waiver of Claim for Additional Time. Failure to give notice of a Claim for extension of time in strict compliance with the requirements of this Article 4.2.5 shall constitute a waiver of such Claim.

4.2.6 Injury or Damage to Person or Property. If the Job Order Contractor suffers injury or damage to person or property because of an act or omission of the Owner, written notice of such injury or damage, whether or not insured, shall be given to the Owner within a reasonable time not exceeding three (3) Business Days after first observance. The notice shall provide sufficient detail to enable the Owner to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Article 4.2.4 or 4.2.5.

4.2.7 Correspondence Issues. If the Job Order Contractor does not agree with a statement or statements set forth in correspondence from the Owner, the Job Order Contractor must submit a written statement within seven (7) days after receipt, setting forth the facts of the issue. Otherwise, the statement will be deemed to have been accepted.

4.3 ALTERNATIVE DISPUTE RESOLUTION

4.3.1 Notwithstanding anything to the contrary provided elsewhere in the Contract, the Alternative Dispute Resolution ("ADR") process provided for in Exhibit B attached hereto and incorporated herein by this reference shall be the exclusive means for resolution of claims or disputes arising under this Contract.

ARTICLE 5 SUBCONTRACTORS

5.1 CONTRACTUAL RELATIONSHIP

5.1.1 Nothing contained in the Contract shall create any contractual relationship between the Owner and any Subcontractor. However, the County reserves the right to reject any subcontractor proposed by the Job Order Contractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Division of Work. The Job Order Contractor shall, prior to execution of the Contract, designate and distinguish in writing to the Owner those portions of the Work to be performed by Subcontractors and the Job Order Contractor's own forces.

5.2.2 Proposed Subcontractors. The Job Order Contractor shall, prior to the start of the Work, furnish in writing to the Owner for review the names of person or entities (including those who are to furnish materials or equipment) proposed for the design, if any, and management portion of the Work.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 Subcontractors Subject to Contract. By an appropriate written Agreement, the Job Order Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Job Order Contractor by the terms of the Contract, and to assume toward the Job Order Contractor all the obligations and responsibilities which the Job Order Contractor assumes toward the Owner, except with respect to the ADR provisions of this Contract. The Job Order Contractor shall require its Subcontractors to enter into similar agreements with their Subcontractors, except with respect to the ADR provisions of this Contract. The Job Order Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of this Contract to which the Subcontractor will be bound, except with respect to the ADR provisions of this Contract. Each Subcontractor shall similarly make copies of this Contract available to their Subcontractors.

5.3.2 Terms to be Included in Subcontracts. All Work performed for the Job Order Contractor by a Subcontractor shall be pursuant to a written agreement between the Job Order Contractor and the Subcontractor. The Job Order Contractor will ensure that each such subcontract contains provisions requiring:

5.3.2.1 that the Work be performed and guaranteed in accordance with the requirements of this Contract;

5.3.2.2 submission to the Job Order Contractor of Applications for Payment under each subcontract in the manner prescribed by the Owner, and reasonable time to enable the Job Order Contractor to apply for payment in accordance with Article 9;

5.3.2.3 that the Subcontractor pay sub-subcontractors in accordance with A.R.S. § 34-221;

5.3.2.4 that the Subcontractor purchase and maintain insurance and comply with all insurance provisions as required by Article 11. If any subcontractor is unable to comply with this paragraph the Job Order Contractor shall request a waiver of this requirement in writing, and shall provide justification for a waiver. If the Owner grants the request it shall not constitute a waiver of the Owner's right to strict performance of this contract, including the insurance requirements for all other subcontractors. No waiver of a subcontractor's insurance requirements will be effective unless it is in writing.

5.3.2.5 that the Subcontractor consents to an assignment of the subcontract from the Job Order Contractor to the Owner in the event of termination of the Job Order Contractor by the Owner.

5.3.2.6 that the Subcontractor complies with all safety requirements.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACT

5.4.1 Each subcontract for a portion of the Work is hereby assigned by the Job Order Contractor to the Owner provided that:

- 5.4.1.1 assignment is effective only after termination of the Task Order or Contract by the Owner for cause pursuant to Article 15.1 and only for those subcontracts which the Owner accepts by notifying the Subcontractor in writing; and
- 5.4.1.2 assignment is subject to the prior rights of the Surety, if any, obligated under the bond required by the Contract.
- 5.4.2 The Job Order Contractor shall conform to the Subcontractor Plan. The Job Order Contractor's submitted subcontractor selection plan applies to all persons or firms selected to perform the construction services and requires the selection of subcontractors to be based on qualifications alone or on a combination of qualifications and price, but not based on price alone.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY OTHER CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION WITH OWN FORCES AND TO AWARD OTHER CONTRACTS

- 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, which include persons or entities under separate contracts not administered by the Owner. The Owner further reserves the right to award other contracts in connection with other portions of the Project or other construction or operations on the Site.

6.2 MUTUAL RESPONSIBILITY

- 6.2.1 Coordination with Owner's Forces. The Job Order Contractor shall afford the Owner's own forces, and other contractor's reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Job Order Contractor's construction and operations with theirs as required by the Contract.
- 6.2.2 Defects in Other Work. If part of the Job Order Contractor's Work depends upon construction or operations by the Owner's own forces or other contractors, the Job Order Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Owner apparent discrepancies or defects in such other construction that would render it unsuitable for proper execution and results. Failure of the Job Order Contractor to so report shall constitute an acknowledgment that the Owner's own forces or other contractors' completed or partially completed construction is fit and proper to receive the Job Order Contractor's Work, except as to defects not then reasonably discoverable.
- 6.2.3 Damage to Other Work. The Job Order Contractor shall promptly remedy damage caused by the Job Order Contractor to the completed or partially completed Project or to the property of the Owner or other contractors.

ARTICLE 7 CHANGES IN THE WORK

7.1 CHANGES IN THE TASK ORDER

7.1.1 The Owner reserves the right to make, at any time during the progress of a Task Order, such alterations as may be found necessary or desirable.

7.1.1.1 Such alterations and changes shall not invalidate this Contract or the Task Order nor release the surety and the Job Order Contractor agrees to perform the Task Order as altered, the same as if it has been a part of the original Task Order Documents.

7.1.1.2 The Owner will request a proposal for a change in a Task Order from the Job Order Contractor, and an adjustment in the Task Order Price and/or Task Order Time shall be made based on a mutually agreed upon cost and time. The Job Order Contractor may proceed with the modified Work only when a revised Purchase Order and a Notice to Proceed have been issued for the revised Work.

7.1.2 Task Order Sum. Adjustments to the Task Order Sum shall be based on actual cost, which is itemized for the purpose of preparing pricing for Task Orders and Task Order Modifications, the Job Order Contractor shall submit to the Owner a complete itemization of all costs required for the Task Order or Task Order Modification in such form and detail as requested by the Owner.

7.1.3 Calculating Mark-Up Costs on a Modification. All markups for modifications, additive and deductive shall be calculated in the following manner. When both additive deductive activities exist within the same modification, mark-ups shall be calculated on the net amount. Each trade billing for a modification shall indicate the PCO number and the amount billed against the PCO number.

Example:

Direct Cost of the Work	\$1,000.00
Bond (.67%)	\$6.70
General Liability (.53%)	\$5.34
Builders Risk (.13%)	\$1.32
<hr/>	
Subtotal	\$1,013.36
Overhead (8.00%)	\$81.07
Fee (5.00%)	\$50.67
<hr/>	
Subtotal	\$1,145.10
Sales Tax (5.395%)	\$61.78
<hr/>	
Total	\$1,206.88

7.1.4 Actual Costs. Except for modifications based on unit prices included in the Contract, cost changes shall be computed by determining the actual cost enumerated in Article 7.1.2. to which the combined overhead and profit may be added, and then adding the insurance, bonds, and tax to compute the total cost.

7.1.5 Labor Prices, General Conditions, Overhead and Profit and Fees in the Contract are in effect for the duration of the Contract not subject to further overhead and profit adjustments. The Contract Sum will be adjusted by the direct extension of the number of units and the unit prices.

7.1.6 Final Settlement. Agreement on any Task Order Modification shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Modification, including, but not limited to, all direct and indirect costs associated with such change, any impact such change may have on the unchanged Work, and any and all adjustments to the Task Sum or the Task Time. In the event a Modification increased the Task Sum, the Job Order Contractor shall include the Work covered by such Modification in Applications for Payment as if such Work were originally part of the Contract. Agreement on any Modification releases the Owner, Design Professional and any other party in privity of Contract with the Owner with respect to the Project from all claims or liabilities arising in any way in connection with, or in any way associated with, such Modification.

7.2 NO DAMAGES FOR DELAY

No claim for damages, or any claim other than for an extension of time, shall be made or asserted against OWNER by reason of any delays unless such delay is one for which the Owner is responsible, which is unreasonable under the circumstances and which was not one within the contemplation of the parties at the time of contracting. Otherwise the Job Order Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from OWNER for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, Eichleay Formula Costs, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided further, however, that this provision shall not preclude recovery of damages by the Job Order Contractor for hindrance or delays due solely to fraud, bad faith or active interference on the part of OWNER or its agents. Otherwise, the Job Order Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

ARTICLE 8 TIME

8.1 PROGRESS AND COMPLETION

- 8.1.1** Consent to Task Order Time. The Job Order Contractor acknowledges that the Task Order Time is a reasonable period for performing the Work, and that it is capable of properly completing the Work within the Task Order Time.
- 8.1.2** Compliance with Task Order Time. The Job Order Contractor shall carry the Work forward expeditiously with adequate forces to maintain progress in accordance with the Job Order Contractor Construction Schedule and to complete the Work within the Task Order Time.
- 8.1.3** Notice Required Before Commencing Work. The Job Order Contractor shall give timely notice before commencement of the Work, to all persons, public utility companies, Owners of property having structures or improvements in proximity to the Site, superintendents, inspectors, or those otherwise in charge of property, streets, water lines, gas lines, sewer lines, telephone cables, communication or data cables, electric cables, railroads, or others who may be affected by Job Order Contractor's operations, in order that they may remove any obstruction for which they are responsible, and have representation on the Site to see that their property is properly protected in accordance

with requirements of the Task Order. Such notice does not relieve the Job Order Contractor of responsibility for any damages, claims, or defense of all actions against the Owner resulting from performance of the Work.

- 8.1.4** Maintenance of Utilities. The Job Order Contractor shall (1) protect utilities encountered whether indicated on Drawings or not; (2) exercise care in excavation around utilities; (3) restore any damaged items to the same condition (or better) as existed prior to starting the Work; and (4) maintain utilities or other services indicated to be abandoned in service until new services are provided, tested, and ready for use. Note: In Owner campuses, use of private utility locator service is required, as Blue Stake has no record of underground utilities in these areas.

8.2 DELAYS AND EXTENSIONS OF TIME

- 8.2.1** Notice of Delays. The Job Order Contractor shall provide prompt written notice to the Owner of the occurrence of any delay, and in no event shall such notice be given later than forty-eight (48) hours after commencement of the delay. The Job Order Contractor agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay (1) is not caused or should not have been anticipated by the Job Order Contractor, and (2) could not have been limited or avoided by the Job Order Contractor's timely notice to its suppliers, Subcontractors, or Owner of the delay.
- 8.2.2** Claims for Additional Time. Claims relating to time shall be made in accordance with Article 4.2.5.
- 8.2.3** Recovery of Damages Not Precluded. This Article 8.2 does not preclude recovery of Owner's damages for delay by the Job Order Contractor, if such occurs.

8.3 TIME OF ESSENCE AND LIQUIDATED DAMAGES

- 8.3.1** Time is of the essence with respect to the performance of each of the covenants, conditions, and obligations contained in this Contract.
- 8.3.2** Upon failure of Job Order Contractor to substantially complete the Task Order within the specified period of time, plus approved time extensions, Job Order Contractor shall pay to OWNER the sum identified in the Notice to Proceed for each calendar **day** after the time specified in the Task Order Notice to Proceed, plus any approved extensions for Substantial Completion. After Substantial Completion, should Job Order Contractor fail to complete the remaining work within the time specified in the Task Order Notice to Proceed, plus approved time extensions thereof, for completion and readiness for Final Completion, Job Order Contractor shall pay to OWNER the sum identified in the Notice to Proceed for each calendar **day** after the time specified in the Task Order Notice to Proceed, plus any approved extensions, for completion and readiness for final payment. These amounts are not penalties but are liquidated damages to OWNER for its inability to obtain full beneficial occupancy of the Project.

Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility or difficulty of precisely ascertaining the amount of damages that will be sustained by OWNER as a consequence of such delay, and both parties desiring to obviate any questions of dispute concerning the amount of said damages and the cost and effect of the failure of Job Order Contractor to complete the Task Order on time. The above-stated liquidated damages shall apply separately to Substantial Completion and Final Completion.

- 8.3.3 OWNER is authorized to deduct liquidated damages from monies due to Job Order Contractor for the work under this contract or as much thereof as OWNER may, at its option, deem just and reasonable.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 SCHEDULE OF VALUES

- 9.1.1 The Schedule of values, after acceptance by the Owner, shall be used as a basis for reviewing the Job Order Contractor's Applications for Payment.

9.2 APPLICATIONS FOR PAYMENT

- 9.2.1 Job Order Contractor shall submit to the Owner an itemized application requesting payment for Work completed, or reasonably projected to be completed by the end of the month, in accordance with the Schedule of Values, substantiating the Job Order Contractor's right to payment as Owner may require, such as copies of requisition from Subcontractors ("Application for Payment").

- 9.2.2 Submission of Applications for Payment.

- 9.2.2.1 One original of the payment invoice is to be submitted by delivering a complete invoice with all substantiating documentation electronically to: FMD-AccountsPayable@mail.maricopa.gov.

- 9.2.3 All invoices must include the following information. Failure to include this information may cause the invoice to be rejected and may result in delayed payments.

- FMD Project Name
 - FMD Project Number
 - FMD Contract Number
 - County Purchase Order Number
 - Vendor Name
 - Maricopa County Vendor Number
 - Unique Invoice Number

- 9.2.4 County shall pay Job Order Contractor within fourteen (14) days of receipt of Job Order Contractor's proper statement. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Project Manager,. Payment may be withheld for failure of Job Order Contractor to comply with a term, condition, or requirement of this Agreement.

- 9.2.5 Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied, or resolved in a manner satisfactory to the Project Manager, and/or due to Job Order Contractor's failure to comply with Section 3.2.1 herein. The amount withheld shall not be subject to payment of interest by County.

- 9.2.6 Task Modification Payment. Applications for Payment may not include requests for payment for changes in the Work that have not been properly authorized by Task Modification.

9.2.7 Identifying Task Modifications in the Schedule-of-Values. Each modification shall be listed separately in the Job Order Contractor’s Schedule-of-Values. Modifications shall be listed by Potential Change Order number, by trade or Subcontractor and include a line item for the JOC’s mark-ups associated with the change.

Example:

A modification occurs including three trades. The Owner issues a Potential Change Order Request #005. Another modification occurs including two trades. The Owner issues Potential Change Order Request #006.

(Schedule-of Values)	Scheduled Value	Previously Paid	This Period.....
Electrical PCO #005	\$1,000.00	0.00	0.00
Mechanical PCO #005	\$1,500.00	0.00	0.00
Framing/Drywall PCO #005	\$1,000.00	0.00	0.00
JOC Markups PCO #005	\$388.72	0.00	0.00
Electrical PCO #006	\$1,000.00	0.00	0.00
Framing/Drywall PCO #006	\$500.00	0.00	0.00
JOC Markups PCO #006	\$166.59	0.00	0.00

9.2.8 Disputes with Subcontractors. Applications for Payment may not include requests for payment of amounts the Job Order Contractor does not intend to pay to a Subcontractor because of a dispute or other reason.

9.2.9 Payment for Stored Materials. Unless otherwise provided in the Contract, payment may, on a limited basis, be made on account of materials and equipment delivered and suitably stored, either on or off the site, for subsequent incorporation in the Work. Approval for payment of stored materials or equipment is at the sole discretion of the Owner. All off-site materials and equipment shall be stored in a licensed and bonded warehouse. All costs associated with inspection of off-site materials and equipment, exclusive of time, shall be borne by Job Order Contractor, and Job Order Contractor shall be responsible for all arrangements.

9.2.10 Lien Waivers. The Job Order Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Job Order Contractor also warrants that upon submittal of an Application for Payment all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interests, or encumbrances in favor of the Job Order Contractor, Subcontractors, or other persons or entities making a claim by reason of having provided labor, materials, or equipment relating to the Work. All Applications for Payment shall include lien waivers executed by the Job Order Contractor providing labor, equipment, or materials for the Work in the form set forth in A.R.S. § 33-1008. The Job Order Contractor shall indemnify, defend, and hold harmless the indemnitee (the Owner) against any lien by any Subcontractor, Sub-Subcontractor, vendor, supplier, manufacturer or other entity or person supplying labor, equipment, or materials related to the Work.

9.2.11 Accounting. The Job Order Contractor shall keep full and detailed accounts and exercise such control as may be necessary for proper financial management under this contract; the accounting and control system shall be satisfactory to the Owner. The Job Order

Contractor shall provide access and cooperate fully in the review of all project records. At a minimum, Job Order Contractor shall afford access to Owner, its accountants, auditors, and any other designated agents, to the Job Order Contractor's records books, correspondence, instructions, drawings, payroll records, receipts, subcontracts, proposals, purchase orders, vouchers, memoranda and other data relating to this Project as required by the Owner. The Job Order Contractor shall preserve these records for a period of three (3) years after final payment, or such longer time as may be required by law.

- 9.2.12** Owner may withhold, in whole or in part, any progress payment to Job Order Contractor to such extent as may be sufficient to pay the Expenses the Owner reasonably expects to incur to correct any deficiency in the Work set forth in specific written finding by Design Professional or Owner prepared for those items in the pay application of the estimate of the Work that are not approved for payment in that pay application under the Contract. If Owner in its good faith judgment, determines that the portion of the Task Order Price then remaining unpaid will not be sufficient to complete the Work in accordance with Contract Documents as set forth in written detail and provided to Job Order Contractor pursuant to A.R.S. § 34-609, no additional payments will be due to Job Order Contractor hereunder unless and until Job Order Contractor, as its sole cost, performs a sufficient portion of the Work so that such portion of the GMP then remaining unpaid is determined by Owner to be sufficient to so complete the Work. It is the intention of this Article 9.2 to provide Owner with the maximum protection afforded an Owner under the Prompt Pay Provisions of A.R.S. § 34-609.

9.3 RECOMMENDATION FOR PAYMENT

- 9.3.1** Timing for Recommendation. The Job Order Contractor's Application for Payment shall be deemed approved and certified for payment within seven (7) days from the date of submission to the Architect/Engineer (hereinafter "A/E"), if utilized, or Owner, unless within seven (7) days from the date of submission, the A/E or Owner issues a written finding to the Job Order Contractor specifying those items in the Application for Payment that will not be approved for payment. The Owner may withhold an amount from the progress payment sufficient to pay the expenses that the Owner reasonably expects to incur in correcting the deficiency set forth in the written finding. Undisputed portions of progress payments shall be paid within fourteen (14) days after approval of the Application for Payment by the Owner. If utilized, the A/E shall recommend payment to the Owner only upon their determination that the Work has progressed to the point indicated in the Job Order Contractor's Application for Payment and that to their knowledge, information, and belief, the quality of the Work is in accordance with the Contract.
- 9.3.2** Recommendation Subject to Later Evaluation. The recommendation of the Architect/Engineer, if utilized, and the decision of the Owner to make a payment is subject to later evaluation of the Work for conformance with the Contract upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract correctable prior to completion, and to specific qualifications expressed by the A/E or Owner. The issuance of a recommendation for payment will not be a representation that the A/E or Owner has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed the Job Order Contractor's construction means, methods, techniques, sequences, or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Job Order Contractor's right to payment, or (4) made examination to ascertain how or for what

purpose the Job Order Contractor has used money previously paid on account of the Contract Sum.

9.4 DECISIONS TO WITHHOLD RECOMMENDATION

9.4.1 Criteria for Withholding Recommendation. The Owner may decide not to recommend payment and may withhold a recommendation in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Owner's opinion the representations to the Owner required in Article 9.3.1 cannot be made. If the Owner is unable to recommend payment in the amount of the Application for Payment, the Owner will notify the Job Order Contractor as provided in Article 9.3.1. If the Job Order Contractor and Owner cannot agree on a revised amount, the Owner will promptly issue a recommendation for the amount for which the Owner is able to make such representations to the Owner. The Owner may also decide not to recommend payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a recommendation previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:

- 9.4.1.1 Defective Work not remedied;
- 9.4.1.2 Third party claims filed or reasonable evidence indicating probable filing of such claims;
- 9.4.1.3 Failure of the Job Order Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
- 9.4.1.4 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Task Order Sum;
- 9.4.1.5 Damage to the Owner or another contractor or Job Order Contractor;
- 9.4.1.6 Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- 9.4.1.7 Persistent failure to carry out the Work in accordance with the Contract;
- 9.4.1.8 Unsatisfactory prosecution of the Work or failure to comply with the Contract Schedule;
- 9.4.1.9 Failure to supply shop drawings or other required submittals;
- 9.4.1.10 Erroneous estimates by the Job Order Contractor of the value of the Work performed;
- 9.4.1.11 The existence of a breach by the Job Order Contractor of any provision in the Contract;
- 9.4.1.12 Failure to execute an assignment of insurance related proceeds pursuant to Article 11.2.2.10;
- 9.4.1.13 Failure to provide or submit in a timely manner safety related documentation required by the Contract or Owner.

- 9.4.1.14 Failure to provide manuals as required by Contract;
- 9.4.1.15 Failure to submit lien waivers as required by Article 9.2.6;
- 9.4.1.16 Failure to submit Schedule updates as set forth herein;
- 9.4.1.17 Failure to submit a Safety Plan per Article 10;
- 9.4.1.18 Failure to maintain and provide Record Documents as set forth herein.

9.4.2 Recommendation Made Upon Compliance. When the above reasons for withholding recommendation are removed, recommendation will be made for amounts previously withheld.

9.5 PAYMENTS TO SUBCONTRACTORS

- 9.5.1 Payment to be Made Within Seven (7) Days. In accordance with A.R.S. § 34-221(E), the Job Order Contractor shall pay each Subcontractor, within seven (7) days of receipt of payment from the Owner, out of the amount paid to the Job Order Contractor on account of such portion of the Work. The amount to which each Subcontractor is entitled shall reflect payments to the Job Order Contractor on account of such Subcontractor's portion of the Work. The Job Order Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in the same manner.
- 9.5.2 No Obligation to Oversee Payments. The Owner shall have no obligation to pay or to see to the payment of money to a Subcontractor.
- 9.5.3 Payment Not Acceptance of Work. A payment recommendation, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract.

9.6 INTEREST

- 9.6.1 If any payment to the Job Order Contractor is delayed after the date due, the Owner shall pay interest at the rate of one and one-half percent (1½%) per month or fraction of a month on such unpaid balance as may be due, provided however, that such charge shall not apply to any disputed portion of an Application for Payment. If any periodic or Final Payment to a Subcontractor is delayed by more than seven (7) days after receipt of the periodic or Final Payment by the Job Order Contractor or Subcontractor, the Job Order Contractor or Subcontractor shall pay interest to his Subcontractor or material supplier, beginning on the eighth day, at the rate of one and one-half percent (1½%) per month or a fraction of a month on such unpaid balance as may be due.

9.7 FAILURE OF PAYMENT

- 9.7.1 If the Job Order Contractor, for any reason not the fault of the Job Order Contractor, is not paid any undisputed amount within fourteen (14) days after the date payment is due, the Job Order Contractor may, upon seven (7) additional days' notice to the Owner, stop the Work until payment of the amount owing has been received. Notwithstanding the preceding, the Job Order Contractor shall not stop the Work during the pendency of a dispute which has been submitted to Alternative Dispute Resolution pursuant to Exhibit

B, nor shall the Job Order Contractor stop the Work if the Owner makes payment of any amounts not in dispute within seven (7) days after the Job Order Contractor's notice of nonpayment is received by the Owner.

9.8 SUBSTANTIAL COMPLETION

9.8.1 Defined. Substantial Completion is the stage of completion of the Work or area of Work when that portion of the Project or Work for which the Job Order Contractor is responsible is fully usable by the Owner for its intended purpose, without inconvenience to, or risk of harm to, the Owner or the public. The authority to determine whether the Job Order Contractor has achieved Substantial Completion is determined by the Owner, whose decision shall be final and binding.

9.8.2 Certificate of Substantial Completion. When the Job Order Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Job Order Contractor shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected. All Owner training, Record Documents, Operation and Maintenance Manuals, warranties, guarantees, reports, and information required for the Owner to operate the facility in accordance with Article 9.8.1 shall be provided in the quantities specified. The Job Order Contractor shall, in the time frame indicated in the Contract Documents, complete and correct all items on the list, unless a longer time is granted by the Owner in writing. Failure to include an item on such list does not alter the responsibility of the Job Order Contractor to complete all Work in accordance with the Contract. Upon receipt of the list, the A/E, if utilized, assisted by the Owner, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the inspection discloses any item, whether or not included on the list, which is not in accordance with the requirements of the Contract, the Job Order Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. The Job Order Contractor shall then submit a request for another inspection by the A/E, if utilized, assisted by the Owner, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the A/E, if utilized, will prepare a certificate which shall (1) establish the date of Substantial Completion, (2) establish responsibilities of the Owner and Job Order Contractor for security, maintenance, heat, utilities, and damage to the Work, and (3) shall fix the time within which the Job Order Contractor shall finish all items on the list accompanying the Certificate of Substantial Completion (Certificate). The Certificate shall be submitted to the Owner and Job Order Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Final Inspection. Following the Owner's issuance of a Certificate of Substantial Completion of the Work and upon completion of the Work, the Job Order Contractor shall forward to the Owner a written notice that the Work is ready for final inspection and acceptance, and shall also forward to the Owner a final Application for Payment. The Job Order Contractor's submission of Final Completion Notice shall indicate that all times listed in Substantial Completion have been completed. When the Owner finds the Work acceptable under the Contract and the Task Order fully performed, the Owner will promptly issue a final recommendation stating that to the best of their knowledge, information, and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with the Task Order and that the remaining Task Order Sum is due, including all retainage, less authorized deductions.

- 9.9.2** Conditions to Final Payment. Final Payment to the Job Order Contractor shall be made within thirty-five (35) days after compliance by the Job Order Contractor with Article 9.9.1 and Article 9.9.2. Neither Final Payment nor any remaining retainage shall become due until the Job Order Contractor submits to the Owner (1) an affidavit acknowledging that all Subcontractors, payrolls, bills for materials and equipment, and other indebtedness connected with the Work will be paid or otherwise satisfied once final payment is made, (2) a certificate evidencing that insurance required by Article 11 is currently in effect and will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the Owner, (3) a written statement that the Job Order Contractor knows of no reason that the insurance will not cover the period required by Article 11, (4) the written consent of the Surety to Final Payment, (5) a full and final release and conditional waiver of liens from the Job Order Contractor. The Job Order Contractor shall also indemnify, defend, and hold harmless the Indemnitees against liens by any Subcontractor (collectively "Final Payment"). Upon final payment for each Task Order, the Job Order Contractor shall provide an unconditional wavier. Release of retention shall not occur until all unconditional lien waivers have been received. After payment of retainage, the Job Order Contractor shall provide an unconditional lien waiver in ten (10) days.
- 9.9.3** Delay of Final Completion. If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Job Order Contractor or by issuance of Task Order Modification affecting Final Completion the Owner shall, upon application by the Job Order Contractor and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. In such case, the Owner will retain at least two times the value of the incomplete or uncorrected parts of the Work, as determined by the Owner. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Task Order the written consent of Surety to payment of the balance of due for that portion of the Work fully completed and accepted shall be submitted by the Job Order Contractor to the Owner prior to recommendation of such payment. Such payment shall be made under terms and conditions governing Final Payment.
- 9.9.4** Waiver of Claims. Acceptance of payment by the Job Order Contractor shall constitute a waiver of claims by that payee, except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAM

- 10.1.1** Job Order Contractor's Responsibility. The Job Order Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The Job Order Contractor shall have a written Safety Program for the Work and shall submit two (2) copies of such Safety Program to the Owner. If the Task Order includes work not contained within the submitted safety program, the Job Order Contractor shall submit the necessary site specific safety precautions and incorporated into the Work.
- 10.1.2** Remedy for Failure to Maintain Safety. If the Job Order Contractor fails to maintain the safety precautions required by law or by the Contract, the Owner may take action as necessary and charge the Job Order Contractor therefore. However, the failure of the

Owner to take any such action shall not relieve the Job Order Contractor of its obligations set forth in Article 10.1.1. If the Job Order Contractor fails to maintain the safety precautions required by law or by the Owner, the Job Order Contractor shall, if directed by the Owner, remove all forces from the Project without cost or loss to the Owner until the Job Order Contractor complies with such safety precautions. The Job Order Contractor shall not be granted additional time for completion of the Work if the Work is stopped by the Owner due to hazards or non-compliance with these provisions.

10.1.3 Environmental Hazards and Archeological Items. In the event the Job Order Contractor encounters on the Site material reasonably believed to contain asbestos, polychlorinated biphenyls (PCBs), petroleum based substances, or hazardous substances (as defined or regulated under any federal, state, or local law), the Job Order Contractor shall (1) immediately stop Work in the area affected and report the condition to the Owner by the fastest available means and follow up in writing; and (2) take reasonable precautions to prevent or contain the movement, spread, or disturbance of such materials. The Work in the affected area shall not thereafter be resumed except by written consent of the Owner. In no event shall the Owner have any responsibility for any substance or material that is brought to the Site by the Job Order Contractor, any Subcontractor, any material man or supplier, or any entity for whom any of them is responsible. The Job Order Contractor agrees not to use any fill or other materials to be incorporated into the Work which are hazardous, toxic, or comprised of any items that are hazardous or toxic. Job Order Contractor shall indemnify, defend, and hold harmless the Indemnitees from and against any and all liabilities, claims, or demands (including attorney's fees and costs) arising out of or resulting from the presence, uncovering, release of suspected or confirmed asbestos, polychlorinated biphenyls (PCBs), petroleum based substances, or hazardous substances to the extent caused by the negligence of, or failure to comply with, the terms and conditions of the Contract by the Job Order Contractor, any Subcontractor, any material man or supplier, or any entity for whom any of them is responsible. Job Order Contractor may request from the Owner any environmental reports which were completed by Owner's environmental consultant(s) for this Project.

10.1.4 Duty to Stop Work. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the Site by the Job Order Contractor, the Job Order Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

10.2 PROTECTION OF PERSONS AND PROPERTY

10.2.1 Job Order Contractor's Duty to Protect. The Job Order Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

10.2.1.1 Employees on the Work and other persons who may be affected thereby;

10.2.1.2 The Work and materials and equipment to be incorporated therein, whether in storage on or off the Site, under care, custody, or control of the Job Order Contractor or the Job Order Contractor's Subcontractors;

10.2.1.3 Other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and

- 10.2.1.4** Construction or operations by the Owner or other contractors.
- 10.2.2** Compliance with Safety Notices and Laws. The Job Order Contractor shall comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury, or loss.
- 10.2.3** Safety Precautions. The Job Order Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying Owners and users of adjacent sites and utilities. The Job Order Contractor shall also be responsible, at the Job Order Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Site and improvements thereon. Any damage to such property or improvements shall be promptly repaired by the Job Order Contractor. Without limiting the indemnity provisions elsewhere in the Contract, the Job Order Contractor shall indemnify, defend, and hold harmless the Indemnitees from and against any and all liabilities, claims, or demands (including attorney's fees and costs) arising out of, or resulting from, damage to such property or improvements.
- 10.2.4** Use of Explosives or Hazardous Materials. When use or storage of explosives, or other hazardous materials or equipment, or unusual methods is necessary for execution of the Work, the Job Order Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. When use or storage of explosives, other hazardous materials or equipment, or unusual methods are necessary, the Job Order Contractor shall secure the Owner's approval prior to their storage or use.
- 10.2.5** Job Order Contractor Liability. The Job Order Contractor shall promptly remedy damage and loss to any property caused in whole or in part by the Job Order Contractor or Subcontractor, or by anyone for whose acts they may be liable.
- 10.2.6** Competent Person. The Job Order Contractor shall designate a competent person or member of the Job Order Contractor's organization at the Site whose duty shall be the prevention of accidents and administration of the Job Order Contractor's written Safety Program
- 10.2.7** Accident Reports. The Job Order Contractor shall report in writing within one (1) working day of the Job Order Contractor's knowledge, to the Owner, all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death or serious personal injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner.
- 10.2.8** Safety Cooperation. The Job Order Contractor and its Subcontractors shall cooperate fully with the Owner and all interested parties on accident prevention and claim handling procedures.
- 10.2.9** Risk of Loss. The Job Order Contractor shall be fully responsible for, and shall bear the full risk of loss of, all the Job Order Contractor's tools, equipment, materials, and other property.

10.3 EMERGENCIES

- 10.3.1 In an emergency affecting safety of persons or property, the Job Order Contractor shall act, at the Job Order Contractor's discretion, to prevent damage, injury, or loss. Additional compensation or extension of time claimed by the Job Order Contractor on account of an emergency shall be determined as provided in Article 4.2 and Article 7.

ARTICLE 11 INDEMNIFICATION AND INSURANCE

11.1 INDEMNIFICATION

- 11.1.1 Job Order Contractor's Duty to Indemnify and Defend. To the fullest extent permitted by law, the Job Order Contractor shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent, reckless, or intentionally wrongful acts, errors, omissions or mistakes of the Job Order Contractor, its agents, representatives, employees, or Subcontractors, relating to the performance of this Contract. This duty to defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by referenced acts, errors, omissions or mistakes in the performance of this Contract, including these made by any person for whose acts, errors, omissions or mistakes, the Job Order Contractor may be legally liable.
- 11.1.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

11.2 INSURANCE

- 11.2.1 Job Order Contractor at its own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of Owner. The form of any insurance policies and forms must be acceptable to Owner.
- 11.2.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of Owner, constitute a material breach of this Contract.
- 11.2.3 Job Order Contractor's insurance shall be primary insurance as respects Owner, and any insurance or self-insurance maintained by Owner shall not contribute to it.
- 11.2.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the Owner's right to coverage afforded under the insurance policies.

- 11.2.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to Owner under such policies. Job Order Contractor shall be solely responsible for the deductible and/or self-insured retention and Owner, at its option, may require Job Order Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 11.2.6 Owner reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. Owner shall not be obligated, however, to review such policies and/or endorsements or to advise Job Order Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Job Order Contractor from, or be deemed a waiver of Owner's right to insist on strict fulfillment of Job Order Contractor's obligations under this Contract.
- 11.2.7 The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name Owner, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- 11.2.8 The policies required hereunder, except Workers' Compensation, and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against Owner, its agents, representatives, officers, directors, officials and employees for any claims arising out of Job Order Contractor's work or service.
- 11.2.9 Job Order Contractor is required to procure and maintain the following coverage's indicated by a checkmark:
- 11.2.9.1 **Commercial General Liability.** Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.
 - 11.2.9.2 **Automobile Liability.** Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to any of the Job Order Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Job Order Contractor's work or services under this Contract.
 - 11.2.9.3 **Workers' Compensation.** Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Job Order Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

- 11.2.9.4** Job Order Contractor waives all rights against Owner and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Job Order Contractor pursuant to this agreement.
- 11.2.9.5 Builder's Risk (Property) Insurance.** Job Order Contractor shall purchase and maintain, on a replacement cost basis, Builders' Risk insurance and, if necessary, Commercial Umbrella insurance in the amount of the initial Contract amount as well as subsequent modifications thereto for the entire work at the site. Such Builders' Risk insurance shall be maintained until final payment has been made or until no person or entity other than Owner has an insurable interest in the property required to be covered, whichever is earlier. This insurance shall include interests of Owner, Job Order Contractor, and all subcontractors and sub-subcontractors in the work during the life of the Contract and course of construction, and shall continue until the work is completed and accepted by Owner. For new construction projects, Job Order Contractor agrees to assume full responsibility for loss or damage to the work being performed and to the structures under construction. For renovation construction projects, Job Order Contractor agrees to assume responsibility for loss or damage to the work being performed at least up to the full Contract amount, unless otherwise required by the Contract documents or amendments thereto.
- 11.2.9.6** Builders' Risk insurance shall be on a special form and shall also cover false work and temporary buildings and shall insure against risk of direct physical loss or damage from external causes including debris removal, demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for architect's service and expenses required as a result of such insured loss and other "soft costs" as required by the Contract.
- 11.2.9.7** Builders' Risk insurance must provide coverage from the time any covered property comes under Job Order Contractor's control and/or responsibility, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered premises or any part thereof are occupied. Builders' Risk insurance shall be primary and not contributory. If the Contract requires testing of equipment or other similar operations, at the option of Owner, Job Order Contractor will be responsible for providing property insurance for these exposures under a Boiler Machinery insurance policy.
- 11.2.9.8** Job Order Contractor, if it is licensed to perform and tasked to perform any design services, shall purchase Errors and Omissions Insurance in an amount stated by Owner in the Task Order.
- 11.2.10** Job Order Contractor waives all rights against Owner and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained pursuant to this agreement.

11.3 CERTIFICATES OF INSURANCE

- 11.3.1 Prior to commencing work or services under this Contract, Job Order Contractor shall furnish Owner with Certificates of Insurance in a form acceptable to Owner, or formal endorsements as required by the Contract in the form provided by the County, issued by Job Order Contractor's insurer(s), as evidence that policies providing the required coverage's, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.
- 11.3.2 In the event any insurance policy(ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for one year past completion and acceptance of Job order Contractor's work or services and as evidenced by annual Certificates of Insurance.
- 11.3.3 If a policy does expire during the life of the Contract, a renewal certificate must be sent to Owner fifteen (15) days prior to the expiration date.

11.4 CANCELLATION AND EXPIRATION NOTICE

- 11.4.1 Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to Owner.

11.5 PERFORMANCE AND PAYMENT BONDS

- 11.5.1 A.R.S. § 34-222. Job Order Contractor shall obtain, at its own expense, performance and payment bonds as required by A.R.S. § 34-222 and Section 00610. Job Order Contractor warrants that its payment and performance bonds fully comply with A.R.S. § 34-222. Bonds will be required on an individual task order basis and are required to be submitted within five business days (or as otherwise approved by the Office of Procurement Services) of the successful completion of negotiations.
- 11.5.2 Copies to Potential Beneficiaries. Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Job Order Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

- 12.1.1 Duty to Uncover Work. If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract, it must, if required in writing, be uncovered for their observation and be replaced at the Job Order Contractor's expense without change in the Contract Time.
- 12.1.2 Cost of Uncovering Work. If a portion of the Work has been covered which the Owner has not specifically requested to observe prior to its being covered, the Owner may request to see such Work and it shall be uncovered by the Job Order Contractor. If such Work is in accordance with the Contract, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract, the Job Order Contractor shall pay such costs.

12.2 CORRECTION OF WORK

- 12.2.1** Duty to Correct Rejected Work. The Job Order Contractor shall promptly correct all Work rejected by the Owner as defective or failing to conform to the requirements of the Contract, whether observed before or after Substantial Completion of the Work and whether or not fabricated, installed, or completed. The Job Order Contractor shall bear costs of correcting such rejected Work, including the replacement or repair of other work affected by Job Order Contractor's performance, including additional testing and inspection and compensation for the Owner's services made necessary thereby. Work rejected before Final Completion shall be corrected prior to Final Payment.
- 12.2.2** One Year Duty to Correct Work. If within any guarantee period, repairs or changes are required in connection with the guaranteed Work, as the result of the use of materials, equipment or workmanship, which are defective, or inferior, or not in accordance with the terms of the Contract, the Job Order Contractor is to commence and continue to effect such repairs or changes to, promptly, within 48 hours after receipt of notice from the Owner, except in the case of emergencies, and without expense to the Owner:
- 12.2.3** Warranty Periods. Nothing contained in this Article 12.2 shall be construed to establish a period of limitation with respect to obligations that the Job Order Contractor has under the Contract or at law, including Article 3.6. Establishment of the time period of one year as described in Article 12.2.2, or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract, relates only to the specific obligation of the Job Order Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Job Order Contractor's liability with respect to Contract obligations.
- 12.2.3.1** Four (4) hours for emergency repair work. An "emergency repair" is defined as that repair necessitated by life, safety or security issues that will jeopardize the continued operation of that facility, endanger its occupants or the general public.
- 12.2.3.2** Sixteen (16) hours for urgent repair work. An "urgent repair" is defined as that repair necessitated by issues that may jeopardize the continued operation of that facility, endanger its occupants or the general public.
- 12.2.3.3** Five (5) days for general service or repairs
- 12.2.3.3.1** place in satisfactory condition, in every particular, all of such guaranteed work and correct all defects therein;
- 12.2.3.3.2** make good all changes to the structure or site or equipment or contents thereof, which in the opinion of the Architect, Engineer or Owner, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the Contract.
- 12.2.3.4** Notifications by the Owner of defects will stop the warranty time period. The guarantee or warranty period for that replaced or restored work is to be reinstated for the remaining time period, starting on the date of acceptance of the replaced or restored work.

- 12.2.3.5** In any case, where, in fulfilling the requirements of the Contract or of any guarantee embraced in or required thereby, the Job Order Contractor disturbs any work guaranteed under another contract, the Job Order Contractor is responsible to restore such work to a condition satisfactory to the Architect, Engineer or Owner and guarantee such restored work to the same extent as it was guaranteed under such other contract.
- 12.2.3.6** If the Job Order Contractor after notice fails to proceed to commence and continue to comply with the terms of the guarantee and Paragraph 1, the Owner may have the defect corrected, in which case the Job Order Contractor and its Surety are liable for all expenses incurred.
- 12.2.3.7** All special guarantees or warranties applicable to definite parts of the Work that may be stipulated in the Specifications or other papers forming part of the Contract are subject to the terms of this Article during the life of such special guarantee.
- 12.2.4** **Removal of Nonconforming Work.** The Job Order Contractor shall remove from the Site, at no additional cost, portions of the Work, which are not in accordance with the requirements of the Contract and are neither corrected by the Job Order Contractor nor accepted by the Owner.
- 12.2.5** **Owner's Right to Correct Nonconforming Work.** If the Job Order Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Article 2.3. If the Job Order Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Owner, the Owner may remove it and store the salvable materials or equipment at the Job Order Contractor's expense. If the Job Order Contractor does not pay costs of such removal and storage within ten (10) days thereafter, the Owner may sell such materials and equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting the costs that should have been borne by the Job Order Contractor, including compensation for Owner's additional services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Job Order Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Job Order Contractor are not sufficient to cover such amount, the Job Order Contractor shall pay the difference to the Owner.
- 12.2.6** **Cost of Correcting Other Affected Work.** The Job Order Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner, Job Order Contractor, or other contractors caused by the Job Order Contractor's correction or removal of Work which is defective or not in accordance with the requirements of the Contract.

12.3 ACCEPTANCE OF NONCONFORMING WORK

- 12.3.1** If the Owner prefers to accept Work, which is not in accordance with the requirements of the Contract, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable for the difference in value together with an allowance for damage or loss of quality. Such adjustment shall be effected whether or not Final Payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the laws of the State of Arizona.

13.1.2 This Contract is made in accordance with and subject to the provision of all applicable laws, statutes, ordinances, rules, regulations, executive orders and codes. To the extent required by applicable law, each party hereto shall comply and require its Subcontractors and suppliers to comply with all then applicable federal, state of Arizona and local nondiscrimination laws, rules, regulations, ordinances and executive orders, including, without limitation, the Civil Rights Act of 1964, as they may be amended, modified, codified, supplemented or repealed from time to time.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Owner and Job Order Contractor respectively bind themselves, their successors, assigns, and legal representatives to the other party hereto and to successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract.

13.3 NOTICES

13.3.1 Methods of Notice. All notices pursuant to this Agreement must be in writing and must be sent to the appropriate person and will be deemed properly given if sent by (1) personal delivery, (2) e-mail, return receipt required, (3) express mail, postage prepaid, return receipt required, or (4) certified United States mail, postage prepaid, return receipt required, addressed as follows:

Owner: Maricopa County
c/o Facilities Management Department
401 West Jefferson Street
Phoenix, Arizona 85003
Attn: Director
E-mail: ReidSpaulding@mail.maricopa.gov

Job Order Contractor: Layton Construction Co., Inc.
4686 E. Van Buren, Suite 100
Phoenix, AZ 85008
Attn: Project Manager
E-Mail: _____

Copy to: Maricopa County
c/o Office of Procurement Services
320 W. Lincoln Street
Phoenix, Arizona 85003
Attn.: Brian Garcia
Contracting Officer
E-Mail: garciab003@mail.maricopa.gov

Each party may, by notice to the others, specify a different address for subsequent notice purposes. Notice is effective on the date of actual receipt or five (5) days after the date of mailing, whichever is earlier.

13.4 RIGHTS AND REMEDIES

- 13.4.1** Legal Rights. Duties and obligations imposed by the Contract and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. This clause shall not be interpreted to permit the Job Order Contractor to recover any costs or damages that are otherwise limited, prohibited, or waived by the Contract.
- 13.4.2** No Waiver. No action or failure to act by the Owner or Job Order Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach thereunder, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

- 13.5.1** Job Order Contractor's Duty to Administer. Tests, inspections, and approvals of portions of the Work required by the Contract or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at the appropriate time. Unless otherwise provided, the Owner shall make arrangements for such tests, inspections, and approvals with the independent testing laboratory. The Job Order Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so the Owner may observe such procedures. Any of the Work requiring testing, inspection, or approval which is covered or otherwise made inaccessible without the consent of those requiring or making the inspection or test shall be uncovered or made accessible by, and at the expense of, the Job Order Contractor. Job Order Contractor shall be responsible for any testing, retesting, or other charges resulting from Job Order Contractor's failure to perform.
- 13.5.2** Additional Testing and Inspection. If the Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Article 13.5, the Owner will instruct the Job Order Contractor to make arrangements for such additional testing, inspection, or approval by an entity acceptable to the Owner, and the Job Order Contractor shall give timely notice to the Owner of when and where tests and inspections are to be made so the Owner may observe such procedures. The Owner shall bear such costs except as provided in Article 13.5.
- 13.5.3** Costs for Testing and Inspection. If such procedures for testing, inspection, or approval under Articles 13.5 reveals failure of the portions of the Work to comply with requirements established by the Contract, the Job Order Contractor shall bear all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's services and expenses.
- 13.5.4** Certificates. Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract, be secured by the Job Order Contractor and promptly delivered to the Owner.
- 13.5.5** Prompt Testing and Inspection. Tests or inspections conducted pursuant to the Contract shall be made promptly to avoid unreasonable delay in the Work.

13.6 MANUFACTURERS' NAMEPLATES

13.6.1 Manufacturers' nameplates shall not be permanently attached to ornamental and miscellaneous metal work, doors, frames, millwork, and similar factory fabricated products on which, in the Owner's opinion, the nameplates would be objectionable, if visible after installation of the Work. This provision does not apply to underwriters' labels when required, or to the manufacturers' name and rating plates on mechanical and electrical equipment.

13.7 MANUFACTURERS' INSTRUCTIONS

13.7.1 All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturers' written specifications or instructions. In case of any difference or conflicts between the requirements of the manufacturers' instructions or specifications and the technical sections of the Specifications, the Job Order Contractor shall promptly report any such difference or conflict to the Owner.

13.8 SBE REQUIREMENTS

13.8.1 The Job Order Contractor shall comply with all requirements of the Small Business Enterprise ("SBE") program applicable to the Project as specified in the Maricopa County Small Business Enterprise Construction Contracting Requirements to be posted at a later date.

ARTICLE 14 CONTRACT INTERPRETATION:

14.1 HEADINGS

14.1.1 The subject headings of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any provision of this Agreement.

14.2 INTERPRETATION

14.2.1 In the interest of brevity, the Contract frequently omits modifying words such as "all" and "any" and articles such as "the" and "an", but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. To the extent permitted by the context in which used, (1) words in the singular member shall include the plural, words in the masculine gender shall include the feminine and neuter, and vice versa; and (2) (unless specified otherwise) references to Articles are to Articles of Section 00700, General Conditions to the Job Order Contract.

ARTICLE 15 TERMINATION OR SUSPENSION OF THE CONTRACT OR TASK ORDER

15.1 TERMINATION BY THE OWNER FOR CAUSE

15.1.1 Criteria for Termination for Cause. The Owner may terminate the Contract or terminate a Task Order if the Job Order Contractor:

- 15.1.1.1 Repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
 - 15.1.1.2 Repeatedly disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction;
 - 15.1.1.3 Materially breaches any provision of the Contract or Task Order;
 - 15.1.1.4 Fails to furnish the Owner with assurances satisfactory to the Owner evidencing the Job Order Contractor's ability to complete the Work for the Task Order in compliance with all the requirements of the Contract; or
 - 15.1.1.5 Fails after commencement of the Work to proceed diligently and continuously with the construction and completion of the Work for more than seven (7) days, except as permitted under the Contract.
 - 15.1.1.6 Repeatedly refuses or fails to carry out Safety provisions as required by Contract;
 - 15.1.1.7 Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Job Order Contractor and the Subcontractors.
- 15.1.2 Effect of Termination for Cause. When any of the above conditions exist, the Owner, may without prejudice to any other rights or remedies of the Owner, and after giving the Job Order Contractor and the Job Order Contractor's Surety, if any, three (3) days' written notice, terminate the Contract or Task Order and may, subject to any prior rights of the Surety:
- 15.1.2.1 Take possession of the Site and all materials, equipment, tools, and construction equipment machinery thereon owned by the Job Order Contractor;
 - 15.1.2.2 Accept assignment of subcontracts pursuant to Article 5.4; and
 - 15.1.2.3 Finish the Work for the Task Order by whatever reasonable method the Owner may deem expedient.
- 15.1.3 Job Order Contractor Right to Receive Payment. When the Owner terminates the Contract or a Task Order for one of the reasons stated in Article 15.1.1, the Job Order Contractor shall not be entitled to receive further payment for the Task Order until the Work is finished.
- 15.1.4 Costs for Finishing Work. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work for the Task Order, including compensation for the Owner's services and expenses made necessary thereby, such excess shall be paid to the Job Order Contractor. If such costs exceed the unpaid balance, the Job Order Contractor shall pay the difference to the Owner. The amount to be paid to the Job Order Contractor or Owner, as the case may be, shall, upon application, be certified after consultation with the Owner, and this obligation for payment shall survive termination of the Contract.

15.2 SUSPENSION BY THE OWNER FOR CONVENIENCE

- 15.2.1** Owner's Right. The Owner may, without cause, order the Job Order Contractor in writing to suspend, delay, or interrupt the Work for a Task Order in whole or in part for such period of time as the Owner may determine.
- 15.2.2** Adjustment in Task Order Sum. An adjustment shall be made for increases in the cost of performance of the Task Order, including profit on the increased cost of performance, caused by suspension, delay, or interruption. No adjustment shall be made to the extent:
- 15.2.2.1** that performance is, was, or would have been so suspended, delayed, or interrupted by another cause for which the Job Order Contractor is responsible; or
- 15.2.2.2** that an equitable adjustment is made or denied under another provision of this Contract.
- 15.2.3** Method for Adjustment in Task Order Sum. Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

15.3 OWNER'S TERMINATION FOR CONVENIENCE

- 15.3.1** Effect of Termination for Convenience. The Owner reserves the right to terminate the Contract or a Task Order for convenience and without cause, even if Job Order Contractor has not failed to perform any part of the Contract or a Task Order. Termination of the Task Order Work shall be effected by written notice to the Job Order Contractor. Upon receipt of such notice, Job Order Contractor shall, unless the notice otherwise directs:
- 15.3.1.1** Immediately discontinue the Work of the Task Order and the placing of all orders and subcontracts in connection with this Contract;
- 15.3.1.2** Immediately cancel all of the existing orders and subcontracts made hereunder or for the Task Order involved;
- 15.3.1.3** Immediately transfer to the Owner all materials, supplies, Work in progress, appliances, facilities, machinery, and tools acquired by the Job Order Contractor in connection with the performance of the Contract or the Task Order, and take such action as may be necessary or as the Owner may direct for protection and preservation of the Work relating to this Contract; and
- 15.3.1.4** Deliver all plans, Drawings, Specifications, and other necessary information to Owner.
- 15.3.2** Job Order Contractor's Exclusive Remedy. If the Owner terminates the Contract or a Task Order for convenience, the following shall be the Job Order Contractor's exclusive remedy:
- 15.3.2.1** Reimbursement of all actual expenditures and costs approved by the Owner as having been made or incurred in performing the Work;

- 15.3.2.2 Reimbursement of expenditures made and costs incurred with the Owner's prior written approval in settling or discharging outstanding commitments entered into by the Job Order Contractor in performing the Contract; and
- 15.3.2.3 Payment of profit, in so far as profit is realized hereunder, of an amount equal to the estimated profit on any Task Order Work underway at the time of termination multiplied by the percentage of completion of the Work. In no event shall the Job Order Contractor be entitled to anticipated fees or profits on Work not required to be performed.
- 15.3.3 Warranties, Guarantees, and Indemnities to Remain in Effect. All obligations of the Job Order Contractor under the Contract with respect to completion of the Work, including but not limited to all warranties, guarantees, and indemnities, shall apply to all Work completed or substantially completed by the Job Order Contractor prior to a convenience termination by the Owner. Notwithstanding the above, any convenience termination by the Owner or payments to the Job Order Contractor shall be without prejudice to any claims or legal remedies that the Owner may have against the Job Order Contractor for any cause.
- 15.3.4 Conversion of Termination for Cause to Termination for Convenience. Upon a determination that a termination of this Contract or a Task Order, other than a termination for convenience, under this Article was wrongful or improper for any reason, such termination shall automatically be deemed converted to a convenience termination under this Article 15, and the Job Order Contractor's remedy for such wrongful termination shall be limited to the recoveries specified under Article 15.3.2.
- 15.3.5 Remedy Limited to Damages. In the event that Job Order Contractor is terminated, whether for cause or convenience, the Job Order Contractor's sole remedy shall be for damages. In no event shall Job Order Contractor be entitled to reinstatement or other equitable relief from a court or through Alternative Dispute Resolution as provided in Exhibit B.
- 15.3.6 Notice that Contract is Subject to Termination Provisions of A.R.S. § 38-511. The parties acknowledge, and as required by law, notice is hereby given that this Contract is subject to A.R.S. § 38-511.**END OF SECTION**

EXHIBIT A

**DEFINITIONS TO THE GENERAL CONDITIONS
TO THE CONSTRUCTION CONTRACT**

Allowance means funds which are included in the Task Order Bid and designated for uses by the Owner.

Application for Payment has the meaning set forth in Article 9.2.1 of the General Conditions to the Construction Contract.

Article shall refer to Specifications Section 00700, General Conditions of the Construction Contract.

Authorized Agent means any person, which may be an employee of the Owner or a consultant, with written notification who acts on behalf of the Owner for the purposes of managing the Task Order.

Business Day means all days of the year except Saturday, Sunday and legal holidays of the United States of America or the State of Arizona.

Certificate of Substantial Completion has the meaning set forth in Article 9.8.2 of the General Conditions to the Construction Contract.

Claim means a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Job Order Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

Contract means the fully executed Contract document between the Job Order Contractor and Maricopa County, Arizona, as may be amended or modified from time to time.

Contract Documents are defined in Section 00500, 7 Contract Documents.

Day or "day" means calendar day unless otherwise specifically defined.

Drawings means the documents referenced in Section 00500, 7 Contract Documents, showing the design, location and dimensions of the Work, generally including but not limited to plans, elevations, sections, details, schedules and diagrams and/or those developed under a specific Task Order

Employer means any individual, firm, or corporation who provides direct labor at or from the Project Site either by written or verbal contract, work order, purchase order, or invoice.

Final Completion means when all of the Work of the Contract fulfills all of the terms of the Contract in all respects.

Final Payment has the meaning set forth in Article 9.9.2 of the General Conditions to the Job Order Contract.

Furnish or "furnish" means "furnish only", including delivery of materials to the Site.

General Requirements means Division I of the Specifications.

Indemnitees means the Owner and all of their respective authorized agents, employees, successors and assigns.

Install or "install" means "install only" furnished materials or items. Such materials or items shall be received at the Site, unloaded, stored and/or distributed, protected, and installed in place, including final connections. Minor items and accessories reasonably inferable as necessary to complete the proper installation shall be provided by the Job Order Contractor whether or not they are specifically called for by the Specifications or Drawings.

Insurance Carrier means the carrier providing coverage for any of the insurance programs.

Insured means the entity named in a Policy or Certificate of Insurance signed by a duly authorized representative of the Insurers.

Insurer means the Insurance Carrier named on a Policy or Certificate of Insurance.

Job Order Contractor means the person or entity identified as such in the Job Order Contract.

JOC Construction Schedule has the meaning set forth in Article 3.11.1 of the General Conditions to the Contract.

Material Status Report has the meaning set forth in Article 3.11.7 of the General Conditions to the Job Order Contract.

Notice to Proceed means that written dated document which instructs the Job Order Contractor to proceed and sets forth the date for substantial and final completion of the project outlined in a specific Task Order.

Owner means Maricopa County, Arizona, or its Authorized Agent.

Product Data means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Job Order Contractor to illustrate materials or equipment for some portion of the Work.

Project means the total construction necessary for the full and efficient use of the facilities and appurtenances described in the individual Task Order Documents.

Provide or Perform or "provide" or "perform" means to furnish, install and complete all labor, materials, equipment, services and other items required to complete the referenced tasks.

Record Documents has the meaning set forth in Section 3.12.2 of the General Conditions.

Record Drawings has the meaning set forth in Section 3.12.2 of the General Conditions.

Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

SBE has the meanings set forth in Article 13.8 of the General Conditions to the Construction Contract, Maricopa County Small Business Enterprise Construction Contracting Requirements.

Schedule of Values has the meaning set forth in Article 9.1 of the General Conditions to the Job Order Contract.

Scope Documents means all documents associates with setting forth the scope of Work designated in each Task Order utilized to develop the Task Order Sum.

Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Job Order Contractor or a Subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

Site means that certain real property upon which the Project is to be constructed and which is generally depicted in the Contract Documents.

Specifications means the document referenced in each individual Task Order consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

Subcontractor means any person or entity supplying labor, equipment, or material for a portion of the Job Order Contractor's Work either on or off the Site and all of the respective employees, agents, successors and assigns of such person or entity. The term "Subcontractor" includes sub-subcontractors of the Job Order Contractor but does not include subcontractors of other contractors performing Work for the Project.

Substantial Completion is the date certified by the Architect/Engineer, if utilized, and/or the Owner in accordance with Article 9.8.1 of the General Conditions to the Job Order Contract.

Surety means the entity providing the performance and payment bonds required under Article 11.4 of the General Conditions to the Job Order Contract.

Task Order means that document which identifies and notifies the Job Order Contractor that a task needs to be performed pursuant to the Job Order Contract and all subsequent documents setting forth the scope, time and sum.

Task Order Modification has the meaning set forth in Article 7.1 of the General Conditions to the Construction Contract.

Task Order Sum is stated in Section 00500, 4.1 and means the total amount payable by the Owner to the Job Order Contractor for performance of the Work under each individual Task Order and pursuant to the terms of the Contract.

Task Order Time means the periods of time set forth in each individual Task Order for Substantial Completion and Final Completion of the Work set forth in that Task Order.

Work means all administration, labor, equipment and materials, whether on or off the Site, necessary to produce and fully complete the construction required by the Contract or reasonably inferable therefrom. If all or part of the Work involves demolition, the term "Work" shall also mean demolition and all activities related to demolition.

Work Day relates to the Job Order Contractor's schedule bases for calculating project activities and durations.

END OF EXHIBIT

EXHIBIT B

ALTERNATIVE DISPUTE RESOLUTION

- 1.1 **Scope.** Notwithstanding anything to the contrary provided elsewhere in the Contract, the alternative dispute resolution (“ADR”) process provided for herein shall be the exclusive means for resolution of claims or disputes arising under, relating to or touching upon the Contract, the interpretation thereof or the performance or breach by any party thereto, including but not limited to original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.
- 1.2 **Neutral Evaluator, Arbitrators.** The County will select a Neutral Evaluator to serve as set forth in this ADR process. As needed under § 1.6.2 below, the County and Job Order Contractor shall each select an arbitrator to serve as set forth in this ADR process. Each arbitrator selected shall be a member of the State Bar of the State of Arizona and shall have experience in the field of construction law. All arbitrators, once selected, shall serve as neutral arbitrators, even if they are party-appointed. The County and the Job Order Contractor shall name their respective arbitrators within five (5) calendar days after the declaration of a failure of mediation or the mutual waiver of mediation.
- 1.3 **Discussion and Partnering.** When a claim is made or a dispute arises relating to the Contract, senior representatives of the County and the claimant will meet personally within ten (10) days to discuss the claim/dispute and attempt to resolve it. If, after good faith efforts, resolution is not achieved, the claim/dispute (hereafter “dispute”) will proceed to the neutral evaluation process.
- 1.4 **Neutral Evaluation Process.** If the parties have been unable to resolve the dispute after discussions and partnering, the following neutral evaluation process shall be used to resolve any such dispute.
 - 1.4.1 **Notification of Dispute.** The County through its Agent shall promptly notify the Neutral Evaluator in writing of the existence of a dispute within ten days of the County or the Job Order Contractor declaring need to commence the neutral evaluation process.
 - 1.4.2 **Non-Binding Informal Hearing.** The Neutral Evaluator shall schedule a non-binding informal hearing of the matter to be held within ten (10) calendar days from receipt of notification of the existence of a dispute. The Neutral Evaluator may conduct the hearing in such manner as he deems appropriate and shall notify each party of the hearing of its opportunity to present such evidence as they believe will resolve the dispute. The Neutral Evaluator shall notify each party to the dispute that they shall submit a written outline of the issues and evidence intended to be introduced at the hearing and their proposed resolution of the dispute to the Neutral Evaluator before the hearing commences. Potential Arbitrators shall not participate in such informal hearing or proceedings process. The Neutral Evaluator is not bound by the rules of evidence when admitting evidence in the hearing and may limit the length of the hearing, the number of witnesses or any evidence introduced to the extent deemed relevant and efficient.
 - 1.4.3 **Non-Binding Decision.** The Neutral Evaluator shall render a non-binding written decision as soon as possible, but not later than five (5) calendar days after the hearing concludes.

1.4.4 **Further proceedings.** In the event that either party declines to accept the Neutral Evaluator's decision as the resolution of the dispute, the dispute will proceed to mediation.

1.5 **Mediation.** In the event that a meeting of principals and neutral evaluation have failed, the parties shall engage in mediation (as a condition precedent to arbitration) within fifteen (15) days of a party's notifying the Neutral Evaluator that the party declines to accept the Neutral Evaluator's decision as the resolution of the dispute. The mediator shall be chosen by the parties' agreement. If such agreement is not reached by five (5) days after the neutral evaluator's receipt of a party's notification, then the mediator shall be named by the Neutral Evaluator. In the event that mediation fails (or is waived by both parties) then the matter shall proceed to binding arbitration.

1.6 **Binding Arbitration Procedure.** The following binding arbitration procedure shall serve as the exclusive method to resolve a dispute if any party chooses not to accept the decision of the Neutral Evaluator and mediation has failed or has been waived. A party requesting binding arbitration shall notify the Neutral Evaluator in writing within seven (7) calendar days of the failure or waiver of mediation of the party's demand for arbitration. If the Job Order Contractor requests arbitration it shall post a cash bond with the Neutral Evaluator in an amount agreed upon by the parties or, in the event of no agreement, the Neutral Evaluator shall establish the amount of the cash bond to defray the cost of the arbitration as set forth in paragraph 1.6.11 and the proceeds from the bond shall be allocated in accordance with paragraph 1.6.13 by the Arbitration Panel. The bond must be in the full amount agreed upon or as established by the Neutral Evaluator to pay the potential cost of the full arbitration proceeding. The bond must be posted with and received by the Neutral Evaluator within five (5) calendar days after the demand for arbitration.

1.6.1 **Arbitration Panel and Applicable Law and Rules.** Disputes involving less than \$200,000 shall be heard by one single arbitrator chosen by agreement of the parties. For disputes in excess of \$200,000, the Arbitration Panel shall consist of three arbitrators: the County's appointed arbitrator, the Job Order Contractor's appointed arbitrator and a third arbitrator (or "neutral arbitrator") who shall be selected by the parties' arbitrators as set forth in Section 1.5.2. The arbitration is to be convened and administered under the Revised Uniform Arbitration Act ("RUAA") (A.R.S. § 12-3001 et seq.) and the American Arbitration Association Construction Rules shall serve as a guideline for proceedings, thus as a supplement to the RUAA.

1.6.2 **Selection of Neutral Arbitrator.** For disputes in excess of \$200,000, the parties' arbitrators shall choose the Neutral Arbitrator, within ten (10) calendar days of notification of a demand for arbitration having been received by the Neutral Evaluator. The Neutral Arbitrator shall have the same qualifications as those of the arbitrators set forth in paragraph 1.2. above. In the event that the two party selected arbitrators cannot agree on a Neutral Arbitrator as set forth above, the Neutral Arbitrator shall be selected as the Default Neutral Arbitrator. If the County and Job Order Contractor cannot agree on the single arbitrator or upon a Default Neutral Arbitrator, then County and the Job Order Contractor shall each submit two names to Judge Eino Jacobson, or his successor as designated by Maricopa County, who shall select one person. The Neutral Arbitrator may submit his invoices for services to the Owner, and the Owner shall pay the amounts invoiced (subject to the provisions of paragraph 1.4.13) unless and until the Job Order Contractor is determined by the Arbitration Panel to be the non-prevailing party and the Arbitration Panel determines per 1.6.11 what party pays such costs.

1.6.3 **Expedited Hearing.** The parties have structured this procedure with the goal of providing for the prompt, efficient and final resolution of all disputes falling within the

purview of this ADR process. To that end, any party can petition the Neutral Evaluator to set an expedited hearing. If the Neutral Evaluator determines that the circumstances justify it, the Neutral Evaluator shall contact the selected single arbitrator or Arbitration Panel and arrange for scheduling of the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical but in no event later than twenty (20) calendar days after notification of request for arbitration having been received. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the single arbitrator or the Arbitration Panel upon a showing of emergency circumstances.

- 1.6.4 **Procedure.** The single arbitrator or the Arbitration Panel will conduct the hearing in such a manner that will resolve disputes in a prompt, cost efficient manner giving regard to the rights of all parties. Each party shall supply to the single arbitrator or Arbitration Panel a written pre-hearing statement which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The single arbitrator or the Arbitration Panel shall review and consider the Neutral Evaluator decision. The single arbitrator or the Chairman shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of any materials or information for which a privilege is recognized by Arizona law. The single arbitrator or the Chairman upon proper application shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to confirm or enforce such orders of the Chairman.
- 1.6.5 **Hearing Days.** In order to effectuate parties' goals, the hearing once commenced, will proceed from working day to working day until concluded, absent a showing of emergency circumstances.
- 1.6.6 **Award.** The single arbitrator shall within ten (10) calendar days of the conclusion of a hearing issue a reasoned award. The Arbitration Panel shall, within ten (10) calendar days from the conclusion of any hearing, by majority vote issue its reasoned award. The award shall include an allocation of fees and costs pursuant to 1.6.11 herein. The award is to be in accordance with the Contract and the law of the State of Arizona.
- 1.6.7 **Scope of Award.** Regardless of the provisions of the RUAA, the Arbitration Panel shall be without authority to award punitive damages, and any such punitive damage award shall be void. If an award is made against any party in excess of one hundred thousand dollars (\$100,000), exclusive of interest, arbitration fees, costs and attorneys' fees, it shall be supported by written findings of fact, conclusions of law and a statement as to how damages were calculated.
- 1.6.8 **Jurisdiction.** The Arbitration Panel shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction over the claim as regards its amount upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing. If the dispute is in reality one involving less than \$200,000, the arbitration shall continue before the Neutral Arbitrator as a single arbitrator, with the party appointed arbitrators being excused.

- 1.6.9 **Entry of Judgment.** As provided in the RUAA, any party can make application to the Maricopa County Superior Court for confirmation of an award, and for entry of judgment on it.
- 1.6.10 **Severance and Joinder.** To reduce the possibility of inconsistent adjudications, the Neutral Evaluator or the single arbitrator or Arbitration Panel, may: (i) at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and (ii) the Neutral Evaluator, on his own authority, or the single arbitrator or Arbitration Panel may, on its own authority, join or sever parties and/or claims subject to this ADR process as deemed necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes, provided, however, that the A/E, Owner and Project Professionals shall not be joined as a party to any claim made by a Job Order Contractor. Nothing herein shall create the right by any party to assert claims against another party not germane to the Contract or not recognized under the substantive law as applicable to the dispute. Neither the Neutral Evaluator nor the single arbitrator or Arbitration Panel is authorized to join to the proceeding parties not in privity with the County. Job Order Contractor cannot be joined to any pending arbitration proceeding, without Job Order Contractor's express written consent and unless Job Order Contractor is given the opportunity to participate in the selection of the single arbitrator or non-County appointed arbitrator.
- 1.6.11 **Fees and Costs.** Each party shall bear its own fees and costs in connection with any informal hearing before the Neutral Evaluator and the mediation. All fees and costs associated with any arbitration before the single panel or Arbitration Panel, including without limitation the Arbitrator fees, and the prevailing party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. In the event that Job Order Contractor is the non-prevailing party, all fees and costs as noted above shall first be paid out of the bond posted with the Neutral Evaluator. In no event shall the Job Order Contractor's obligation to pay fees and costs be limited to the amount of the bond posted herein. In no event shall any Arbitrator's hourly fees be awarded in an amount in excess of \$250 per hour and (i) costs shall not include any travel expenses in excess of mileage at the rate paid by Maricopa County, not to exceed a one way trip of 150 miles, and (ii) all travel expenses, including meals, shall be reimbursed pursuant to the travel policy of Maricopa County in effect at the time of the hearing. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the single arbitrator or Arbitration Panel. Fees for the Neutral Evaluator shall be paid by County.
- 1.6.12 **Confidentiality.** Any proceeding initiated under this ADR provision shall be deemed confidential to the maximum extent allowed by Arizona law and, except for disclosures to a party's attorneys or accountants, no party shall make any disclosure related to the disputed matter or to the outcome of any proceeding except to the extent required by law, or to seek interim equitable relief, or to enforce an agreement reached by the parties or an award made hereunder. This provision does not affect the County's right to inform the County Supervisors of the resolution of the dispute.
- 1.6.13 **Equitable Litigation.** Notwithstanding any other provision of ADR to the contrary, any party can petition the Maricopa County Superior Court for interim equitable relief as may become necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to the Project pending resolution of a dispute pursuant to ADR provided herein. No court may order any permanent injunctive relief except as may be necessary to

enforce an order entered by the Arbitration Panel. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

1.6.14 **Change Order.** Any award in favor of the Job Order Contractor against the County or in favor of the County against the Job Order Contractor shall be reduced to a Change Order and executed by the parties in accordance with the award and the provisions of the Contract.

1.6.15 **Merger and Bar.** Any claim asserted pursuant to this ADR process shall be deemed to include all claims, demands, and requests for compensation for costs and losses or other relief, including the extension of the Contract performance period which reasonably should or could have been brought against any party that was or could have been brought into this ADR process, with respect to the subject claim. The Arbitration Panel shall apply legal principles commonly known as merger and bar to deny any claim or claims against any party regarding which claim or claims recovery has been sought or should have been sought in a previously adjudicated claim for an alleged cost, loss, breach, error, or omission.

1.7 **Inclusion in Other Contracts.** The Job Order Contractor shall cooperate with the County in efforts to include this ADR provision in all other project contracts. Subject to Job Order Contractor's reasonable agreement, the Job Order Contractor agrees that any modification to this ADR provision that is included in the construction or other contracts shall also apply to the Job Order Contractor. It is the intent of the parties that any changes to this ADR provision in later contracts will be evolutionary and designed to incorporate the terms of this ADR provision without material changes to the substance or procedure of this ADR provision.

END OF EXHIBIT

EXHIBIT C

[Legal Worker Certification]

June 13, 2014

(Date)

Maricopa County
 Office of Procurement Services – Article 5
 320 W. Lincoln Street
 Phoenix, Arizona 85003

As required by Arizona Revised Statutes §41-4401, Maricopa County (the “County”) is prohibited, after September 30, 2008 from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214-A. The undersigned entity warrants that it complies fully with all federal immigration laws and regulations that relate to its employees, that it shall verify, through the employment verification pilot program as jointly administered by the U.S. Department of Homeland Security and the Social Security Administration or any of its successor programs, the employment eligibility of each employee hired after December 31, 2007, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to the below entity.

The undersigned acknowledges that a breach of this warranty by the below entity or by any subcontractor or sub-subcontractor under any Contract resulting from this solicitation shall be deemed a material breach of the Contract, and is grounds for penalties, including termination of the Contract, by the County. The County retains the right to inspect the records of the below entity, subcontractor and sub-subcontractor employee who performs work under the Contract, and to conduct random verification of the employment records of the below entity and any subcontractor and sub-subcontractor who works on the Contract, to ensure that the below entity and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Layton Construction Co. Inc.

(Firm)

David Blaser

(Print Name)

Executive Vice President

(Print Title)



(Signature Required)

dblaser@laytonconstruction.com

(Email Address)

4686 E Van Buren, Suite 100

(Address Line 1)

Phoenix, AZ 85008

(Address Line 2)

602-840-8655

(Phone)

602-840-8646

(Fax)

87-0660059

(Federal Taxpayer ID Number)

EXHIBIT D



**JOB ORDER CONTRACTING
REQUEST FOR PROPOSAL**

PROJECT: _____ **DATE:** _____

TO JOB ORDER CONTRACTOR: _____ **REQUEST NO:** _____

CONTRACT FOR: _____ **CONTRACT NO:** _____

Please submit an itemized quotation for the requested work in accordance with Contract Documents.

THIS IS NOT A TASK ORDER NOR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED HEREIN.

DESCRIPTION: (Written description of the work)

ATTACHMENTS: (List attached documents that support description)

INITIATED BY: _____ **DATE:** _____

EXHIBIT E

PERFORMANCE BOND AND PAYMENT BOND

PART 1 GENERAL

1.1 DESCRIPTION

- 1.1.1 All bonds must be pursuant to A.R.S. Title 34, Chapter 6, Article 1, and 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 State of Arizona Department of Insurance.
- 1.1.2 Bonds executed by an individual surety or sureties are not in compliance with Arizona Revised Statutes.
- 1.1.3 The use of the Owner-supplied bond forms is required.

1.2 SUBMITTALS

- 1.2.1 Submit a completed copy of the Statutory Performance Bond within five (5) days of the date of the Notice of Intent to Award letter.
- 1.2.2 Submit a completed copy of the Statutory Payment Bond within five (5) days of the date of the Notice of Intent to Award letter.

END OF SECTION

STATUTORY PERFORMANCE BOND

PURSUANT TO TITLE 34, CHAPTER 6, ARTICLE 1, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (hereinafter called the Principal), as Principal, and the _____, a corporation duly organized under the laws of the State of _____, with its principal office in the City of _____ hereinafter called the Surety), as Surety are held and firmly bound unto Maricopa County (hereinafter called the Obligee), in the amount of _____ (\$ _____) 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 _____, 2004, to services as outlined in the Job Order Contract, **Contract No. 14007-JOC**, 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 THE OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all of the undertaking, 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 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 6, Article 1, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 6, Article 1, 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 be entitled as part of the judgment reasonable attorney's fees as may be fixed by the judge of the court.

Witness our hands this _____ day of _____, 200__.

AGENCY OF RECORD, STATE OF ARIZONA

PRINCIPAL

BY: _____

AGENCY ADDRESS

TITLE: _____

SURETY

BY: _____

TITLE: _____

BOND NUMBER _____

ATTACH SURETY POWER OF ATTORNEY



EXHIBIT F
[SBE Reporting Document]
MARICOPA COUNTY SBE PARTICIPATION REPORTING FORM

This form is to be submitted with each pay application or invoice. Any pay application or invoice without this form attached is subject to rejection as not being a completed pay application or invoice pursuant to the terms of the contract.

 Name of Prime Consultant/Contractor

 Contract No.

 Contact Person

 Project No.

 Street Address

\$ _____
 Amount of this Pay Application/Invoice

 City, State ZIP

Complete below with information on the SBE firms utilized as subconsultants/subcontractors for this pay application/invoice. If work was self-performed and your firm, as the prime, is an SBE firm pursuant to A.R.S. § 41-1001, et seq., then you may list your firm as the SBE firm.

SBE Firm Name	SBE Firm Address	Type of Work Performed	\$ Pd to SBE this App/Inv
			\$
			\$
			\$
			\$
			\$
			\$
			\$

A mark in this box certifies that no SBE firms were utilized as the prime, subconsultant or subcontractor with respect to this pay application/invoice.

 Date

 Signature

 Printed Name & Telephone Number

EXHIBIT G

Request for Qualifications Dated February 13, 2014 and Addendum 1 are incorporated herein as though they were fully attached to this contract as Exhibit G.



14007-Solicitation.pdf
f



14007-Addendum
1.pdf



Maricopa County

REQUEST FOR QUALIFICATIONS FOR JOB ORDER CONTRACTOR

SERIAL # 14007-JOC
CONTRACT # 14007-JOC

Job Order Contractor for Facilities Management

**Statement of Qualifications Due Friday, March 07, 2014
At 11:00 AM (Arizona Time)**

**Maricopa County
Office of Procurement Services
320 W. Lincoln St. (Second Floor)
Phoenix, Arizona 85003
(602) 506-3246**



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This Request for Qualifications is separated in two parts: Part I – Request for Qualifications Information, and Part II – Attachments. The Attachments are part of the Request for Qualifications and the terms, conditions and criteria therein must be met by any Proposer.

REQUEST FOR QUALIFICATIONS

Job Order Contractor For Maricopa County

PART I: REQUEST FOR QUALIFICATIONS INFORMATION

DIVISION I: REQUEST FOR QUALIFICATIONS AND LEGAL ADVERTISEMENT

MARICOPA COUNTY REQUEST FOR QUALIFICATIONS (RFQ)

Maricopa County extends an invitation to interested and qualified firms or individuals to submit formal sealed qualifications to provide Job Order Contracting design phase services, as needed, and construction phase services as described herein.

ALL CURRENT JOC CONTRACT AWARDEES ARE ELIGIBLE TO RESPOND. IT IS THE INTENT OF MARICOPA COUNTY TO CANCEL ALL PREVIOUSLY AWARDED JOC'S FOR FACILITIES MAINTENANCE SERVICES ISSUED BY OR ON BEHALF OF THE FACILITIES MANAGEMENT DEPARTMENT UPON AWARD OF THIS SOLICITATION.

Design Services: The scope of work will vary with each Job Order. Minor design services may be required for some job orders; however, most will be designed through registered professional consultants under separate contracts. For job orders that require design services, the contractor shall seek the services of Arizona registered professionals to prepare plans for permitting.

Construction Services by the JOC Contractor may include, but are not limited to:

- Provide construction services for various projects, including required labor (including subcontractors), materials, equipment, and related services for renovations; tenant improvements; additions, including site work and utility extensions; and upgrades and replacement of building mechanical, electrical, and building automation systems. Projects will be located throughout Maricopa County, Arizona and may include work in occupied judicial, detention, office, and customer service facilities.
- Assist with scoping and constructability issues.
- Provide project scheduling.
- Provide detailed cost estimating and knowledge of marketplace conditions.
- Provide value engineering as required.
- Provide long-lead procurement studies and possibly initiate procurement of long-lead items.
- Coordinate with various County departments and other agencies including utility companies, etc.
- Schedule and manage site operations.
- Bid, award, and manage all subcontracts while meeting the County project requirements.
- Provide quality controls.
- Address all federal, state, city, and county permitting requirements and assist in the permitting processes.
- Maintain a safe and clean work site for all project participants, County staff, and public.

The Maricopa County Facilities Management intends to award eight (8) job order contracts to separate persons or firms.

The contract term will be for a period of three (3) consecutive years with two (2) one year options to renew the contract for a total of five (5) years maximum per contract. The overall construction cost shall not exceed five million (\$5,000,000) per contract year, maximum \$1,000,000 limit per individual project task order.

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LAYTON CONSTRUCTION CO., INC**

EXHIBIT B
Scope of Work

PROJECT

In accordance with the terms and conditions of this Agreement and Maricopa County Contract No. 14007-JOC, the City is retaining Layton Construction Co., Inc. for general maintenance and repair services city-wide on an as-needed basis.

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LAYTON CONSTRUCTION CO., INC.**

EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

Method and amount of compensation is in accordance with Section 3 of this agreement.

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$300,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

City shall pay Contractor compensation in accordance with the rates as set forth in the Maricopa County Contract, No. 14007-JOC, for general maintenance and repair services city-wide on an as-needed basis.