

**CONSTRUCTION AGREEMENT**

This Construction Agreement ("Agreement") is entered into this 8<sup>th</sup> day of February, 2013, and is effective between the City of Glendale, an Arizona municipal corporation ("City"), and Swaine Asphalt Corp., an Arizona corporation authorized to do business in the State of Arizona ("Contractor").

**RECITALS**

- A. City intends to undertake a project for the benefit of the public, with public funds, that is more fully set forth in **Exhibit A** attached ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project;
- C. City and Contractor desire to memorialize their agreement with this document.

**AGREEMENT**

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

**1. Project.**

- 1.1 Scope. Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.
- 1.2 Project Team.
  - a. Project Manager. Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
  - b. Project Team.
    - (1) The Project Manager and all other employees assigned to the Project by Contractor will comprise the "Project Team."
    - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
  - c. Sub-contractors.
    - (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
    - (2) Contractor will remain fully responsible for Sub-contractor's services.
    - (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
    - (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

- 2. **Schedule.** The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in Exhibit A, the Project shall be completed no later than April 30, 2013.

### 3. Contractor's Work.

- 3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.
- 3.2 Licensing. Contractor warrants that:
- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
  - b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
    - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
    - (2) Contractor must notify City immediately if any Approval or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.
- 3.3 Compliance. Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.
- 3.4 Coordination; Interaction.
- a. If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
  - b. Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
  - c. If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.
- 3.5 Hazardous Substances. Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.
- 3.6 Warranties. At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment.
- 3.7. Bonds. Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance Bonds as required under A.R.S. § 34-608.

### 4. Compensation for the Project.

- 4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$35,894.08, as specifically detailed in **Exhibit B** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.

- a. Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
- c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

**5. Billings and Payment.**

**5.1 Applications.**

- a. Unless Exhibit B (Compensation) dictates otherwise, the Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

**5.2 Payment.**

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Contractor and its Sub-contractors; and
  - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

**5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.**

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
- c. Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
- d. City will temporarily withhold Compensation amounts as required by A.R.S. § 34-221(C).

**6. Termination.**

**6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.**

- a. Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

## 7. Insurance.

7.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- b. General Liability.
  - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
  - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
  - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.
- f. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
  - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
  - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
  - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.

g. Certificates of Insurance.

- (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
- (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
- (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.

h. Other Contractors or Vendors.

- (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
- (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

i. Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.

- (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
- (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

7.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

7.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense," collectively, "Demands or

Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.

- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
  - c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.
- 7.4 Waiver of Subrogation. Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

**8. Immigration Law Compliance.**

- 8.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 8.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 8.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 8.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

- 9. Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

10. **Foreign Prohibitions.** Contractor certifies under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

11. **Non-Discrimination Policies.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

12. **Notices.**

12.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- a. The Notice is in writing, and
- b. Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
- c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
  - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
  - (2) As of the next business day after receipt, if received after 5:00 p.m.
- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

12.2 Representatives.

- a. Contractor. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Swaine Asphalt Corp.  
Attn: Tom Swaine  
2413 S. 21st Street  
Phoenix, AZ 85034

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
Attn: Chris Lemka  
5800 W. Glenn Drive  
Suite 315  
Glendale, Arizona 85301

With required copies to:

City of Glendale  
City Manager  
5850 West Glendale Avenue  
Glendale, Arizona 85301

City of Glendale  
City Attorney  
5850 West Glendale Avenue  
Glendale, Arizona 85301

- c. Concurrent Notices.
  - (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
  - (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
  - (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.
- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

**13. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

**14. Entire Agreement; Survival; Counterparts; Signatures.**

14.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

14.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

14.3 Survival. Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

14.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.

14.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

14.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.

14.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

15. **Dispute Resolution.** Each claim, controversy and dispute ("Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.

16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A      Project

Exhibit B      Compensation

Exhibit C      Dispute Resolution

(The remainder of this page left blank intentionally. Signatures appear on the following page.)

The parties enter into this Agreement as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

Cathy Colbath  
By: Cathy Colbath  
Its: Transit Administrator

ATTEST:

[Signature]  
City Clerk (SEAL)

APPROVED AS TO FORM:

[Signature]  
City Attorney

Swaine Asphalt Corp.  
an Arizona corporation

[Signature]  
By: Tom Swaine  
Its: Vice-President

WOMEN-OWNED/MINORITY BUSINESS [ ] YES [ ] NO

**EXHIBIT A  
CONSTRUCTION AGREEMENT**

PROJECT

*[See attached]*



**CITY OF GLENDALE**  
**TRANSPORTATION SERVICES**  
**DEPARTMENT**

**DESCRIPTION:**

**CONSTRUCT 11 NEW SPEED CUSHIONS,  
REMOVAL OF 4 SPEED HUMPS AND  
REPLACED WITH SPEED CUSHIONS**

**QUOTE DUE DATE AND TIME:**

**Thursday January 17, 2013 AT 4:00 P.M. LOCAL  
TIME**

**SUBMITTAL LOCATION:**

**City of Glendale  
Transportation Services Dept.  
Attn: Chris Lemka  
5800 W. Glenn Drive, Suite 315  
Glendale, Arizona 85301**

**OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE  
SOLICITATION.**

City contact:  
**Chris Lemka, P.E.**  
**Transportation Services Department**  
**(623) 930-2940**  
**Clemka@glendaleaz.com**

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## **1.0 SPECIFICATIONS**

It is the intent of the City of Glendale to construct 11 new speed cushions on 5 different streets in the city per the attached detail. The locations of the 11 new speed cushions have been attached for reference. This solicitation also includes an optional task of removing 4 existing speed humps and constructing speed cushions. The city has the right to add the optional task as part of this solicitation. This solicitation covers the following installations:

- A. 11 new speed cushions, see the attached speed cushion detail and exhibits for locations. One of the new speed cushions will deviate from the standard detail and be staggered. Transportation staff will assist with the layout of the speed cushion, which will be located on Grovers Avenue. All debris from construction shall be removed prior to leaving the job site.
- B. Roadway striping, see attached detail and notes. **The contractor will be responsible for purchasing and installing water based pavement markings per the MUTCD on the day the devices are constructed.** The City of Glendale will install street signs. **The contractor is required to return 30 to 45 days later to place the permanent tape per city standards.**
- C. Optional Task – The city has the right to add this optional task to the contract. The optional task includes removing and deposing of 4 existing speed humps and constructing new speed cushions. Speed cushions shall be constructed per the attached detail. All debris from construction shall be removed before leaving the job site. The location of the four speed humps is on 45<sup>th</sup> Avenue between Glendale Avenue and Orangewood Avenue. There is an attached exhibit for reference.
- D. Accept the terms and conditions of the attached template contract. The contractor selected to perform the work will be required to abide by the terms and conditions listed in the attached template contract.

**1.1 GENERAL** The proposal documents shall specify that the proposer agrees to furnish any and all required labor, construction equipment, transportation and services for the installation or modification of the devices.

## **1.2 GENERAL QUALIFICATIONS**

- A. Proposer shall employ qualified experienced personnel only to perform the various functions as required by local codes, ordinances, and statutes.
- B. Proposer shall have, or have the ability to obtain, all licenses, certifications, registrations, etc., required to perform all work included herein by the date specified for the contract to begin.

## **1.3 GENERAL REQUIREMENTS**

- A. Proposer shall comply with State and City statutes governing utility clearances, “Blue Stake” regulations, Traffic Barricade requirements, “MAG” Standards and Specifications, and City of Glendale Ordinances.

- B. All installation work shall be in accordance with the City of Glendale Asphaltic Concrete Mix Design and City of Glendale Standard Details. Copies of the standard details are attached to the bid documents.
- C. Proposer shall provide and have readily available support equipment to install mitigation devices including a form to ensure proper speed cushion dimensions as shown in the standard details.

**1.4 BASIC PRECAUTIONS** Proposer shall protect existing utility services and be responsible for their replacement if damaged by the Contractor, or to make necessary adjustment in their location, if required, in order to complete the work for this Contract.

Proposer is advised that when work around overhead lines and poles is required on a project, the Contractor is required to coordinate with Utility Companies who own and operate overhead lines and poles.

**1.5 SPECIFIC REQUIREMENTS**

- A. Proposer shall be responsible for following the “Phoenix Barricade Manual” for all traffic restrictions. Unless otherwise provided, the following traffic restrictions are minimum requirements through the construction period. All restrictions listed herein are to supplement the City of Phoenix “Traffic Barricade Manual,” and are not intended to delete any part of the manual. All references in the “Traffic Barricade Manual” to “arterial” and/or “collector” streets shall mean “major” streets.
- B. A minimum of one travel lane shall be maintained open to traffic at all times. A barricade plan shall be submitted for review and approval by the City of Glendale Transportation Department. Certified flagmen will be required to direct traffic around speed cushion (half) under construction.
- C. The contractor shall not disturb existing traffic signs. Street name signs at major street intersections shall be maintained in place at all times.
- D. Local access to all properties on the subject project shall be maintained at all possible times in the form of a safe and reasonable direct route to at least one major street.
- E. No work shall be completed on refuse collection day for each street. Collection days are available on the City of Glendale website.
- F. The contractor shall keep all project sites free from debris resulting from work specified therein.
- G. The City shall provide inspection. Inspection by the City of Glendale shall not be considered as direct control of the individual workman and his work. The direct control shall be solely the responsibility of the contractor.
- H. A temporary “BUMP” sign and vertical panel shall be placed at each speed hump for each direction. The signs shall be maintained for three days after construction.
- I. Work times for construction or removal are from 8:30 AM to 4:00 PM. No exceptions will be made in a residential area.
- J. All speed cushions shall be striped with a water based paint the **DAY of INSTALLATION**. See attached water based specification. 30 to 45 days after installation, the contract shall place the directional chevrons with SMS-260 3-M tape (or approved equivalent). See attached specifications. The contractor must call the Transportation Department 48 hours prior to installation at 623-930-2940.

- K. On some roads it may be necessary to stripe a 4" double yellow or a 6" solid white stripe. Striping changes that differ from the attached standard detail will come from the direction of the Glendale traffic engineer. All striping must be done in a water based paint in conformance to the attached specification.
- L. The attached speed hump standard detail is good only for road widths of 36 feet or wider. For roadway widths that are less than 36 feet, only two ruts will be constructed that are spaced at 6.6 feet apart, located 3.3 feet on each side of the centerline of the road.
- M. All devices should be laid out and constructed perpendicular to the lip of gutter.

#### **1.6 PAVEMENT MARKINGS THERMOPLASTIC SUPPLEMENTAL SPECIFICATION**

**A. General:** The work under this section consists of the contractor furnishing all materials, preparing the pavement surface and installing the pavement markings. All pavement marking materials shall be approved by the City of Glendale Transportation Department prior to installation.

**B. Lane Lines And Centerline:** Application of the white lane line and yellow centerline striping shall be performed in accordance with Arizona Department of Transportation (ADOT) Standard Specification 704. The application equipment shall be truck mounted per ADOT Standard Specification 704-3.01.

Materials for white lane line and yellow center line striping shall be in accordance with ADOT Standard Specification 704 with the exception that the material shall be Alkyd Thermoplastic. All long line striping shall be spray type and be applied at a thickness of 60 mils.

All yellow and white broken lane lines shall have a common start point and cycle length, so as to be restriped simultaneously, using a common cycle length on both sides of the truck carriage. The cycle length is to be 40 feet with a 10 foot long line and a 30 foot space between lines.

**C. Pavement Turn Arrows and Symbols:** Installation and material for left and right turn arrows shall be in accordance with Section 705 of the ADOT Standard Specifications. Material to be 3M Sta-Mark Series SMS-5730 or approved equal. Apply 3M contact cement, E-44 or approved equal, to the roadway for the installation of all arrows.

#### **1.7 WATER BASED PAVEMENT MARKINGS SPECIFICATIONS**

**A. General:** The work under this section consists of the contractor furnishing all materials, preparing the pavement surface and installing the pavement markings. All pavement marking materials shall be approved by the City of Glendale Transportation Department prior to installation.

**B. Lane Lines And Centerline:** Application of the white lane line and yellow centerline striping shall be performed in accordance with Arizona Department of

Transportation (ADOT) Standard Specification 708. The application equipment shall be truck mounted per ADOT Standard Specification 708-3.01.

Materials for white lane line and yellow center line striping shall be in accordance with ADOT Standard Specification 708, with the exception that water based traffic marking paint shall be used.

All yellow and white broken lane lines shall have a common start point and cycle length, so as to be re-striped simultaneously, using a common cycle length on both sides of the truck carriage. The cycle length is to be 40 feet with a 10 foot long line and a 30 foot space between lines.

**C. Pavement Turn Arrows and Symbols:** Installation and material for left and right turn arrows shall be in accordance with Section 705 of the ADOT Standard Specifications. Material to be 3M Sta-Mark Series SMS-5730 or approved equal. Apply 3M contact cement, E-44 or approved equal, to the roadway for the installation of all arrows.

**2.0 OFFER**

Bidder certifies that they have read, understand, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Bidder also certifies that the prices offered were independently developed without consultation with any of the other bidders or potential bidders.

|                                     |                        |
|-------------------------------------|------------------------|
| _____                               | _____                  |
| Authorized Signature                | Company's Legal Name   |
| _____                               | _____                  |
| Printed Name                        | Address                |
| _____                               | _____                  |
| Title                               | City, State & Zip Code |
| _____                               | _____                  |
| Telephone Number                    | FAX Number             |
| _____                               | _____                  |
| Authorized Signature E-mail Address | Company E-mail Address |

**For questions regarding this offer: (If different from above)**

|                       |              |            |
|-----------------------|--------------|------------|
| _____                 | _____        | _____      |
| Contact Name          | Phone Number | Fax Number |
| _____                 |              |            |
| Contact Email Address |              |            |

FEDERAL TAXPAYER ID NUMBER: \_\_\_\_\_

Arizona Sales Tax No. \_\_\_\_\_ Tax Rate \_\_\_\_\_

Bidder certifies it is a: Proprietorship  Partnership  Corporation .

Minority or woman owned business: Yes  No

**3.0 PRICE**

| Item No.                            | Estimated<br>Quantity       | Item (Description)  | Unit Price  | Total           |
|-------------------------------------|-----------------------------|---|-------------|-----------------|
| 1                                   | 10 EACH                     | New Speed Cushions (see attached Detail and Locations)  | \$ _____    | \$ _____        |
| 2                                   | 1 EACH                      | New Staggered Speed Cushion on Grovers Avenue   | \$ _____    | \$ _____        |
| 3                                   | 2,700 LF<br>(4" equivalent) | 4" Double Yellow Striping   | \$ _____    | \$ _____        |
| 4                                   | 2,000 LF<br>(4" equivalent) | 6" Solid White Striping (Assumed for bike lanes adjacent to 7 speed cushions)   | \$ _____    | \$ _____        |
| 5                                   | 44 EACH                     | Water Based Painted Chevron (to be installed the day as the speed cushion installation)                                       | \$ _____    | \$ _____        |
| 6                                   | 44 EACH                     | 3-M tape or approved equivalent chevron pavement markings to be installed 30 to 45 days after the speed cushion is installed. | \$ _____    | \$ _____        |
|                                     |                             |   | Tax % _____ | \$ _____        |
| <b>Grand Total For This Section</b> |                             |   |             | <b>\$ _____</b> |

**BID ALTERNATE (SUBJECT TO APPROVAL OF THE CITY)**

|    |        |   |          |          |
|----|--------|---|----------|----------|
| 1A | 4 EACH | Removal of 4 existing speed cushions on 45 <sup>th</sup> Avenue between Glendale Avenue and Orangewood (see attached map) | \$ _____ | \$ _____ |
| 2A | 4 EACH | New Speed Cushions (see attached Detail)  | \$ _____ | \$ _____ |

|    |          |   |          |          |
|----|----------|---|----------|----------|
| 3A | 1,000 LF | 4" Double Yellow Striping   | \$ _____ | \$ _____ |
| 4A | 16 EACH  | Water Based Painted Chevron (to be installed the day as the speed cushion installation)                                       | \$ _____ | \$ _____ |
| 5A | 16 EACH  | 3-M tape or approved equivalent chevron pavement markings to be installed 30 to 45 days after the speed cushion is installed. | \$ _____ | \$ _____ |
|    |          | Tax   | % _____  | \$ _____ |

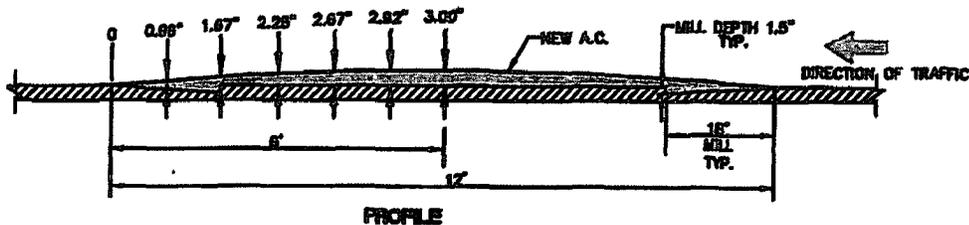
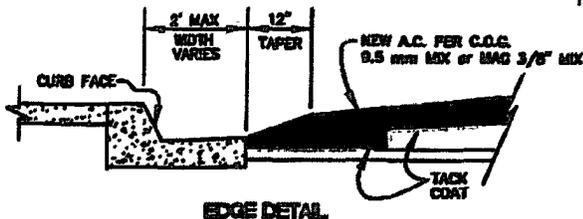
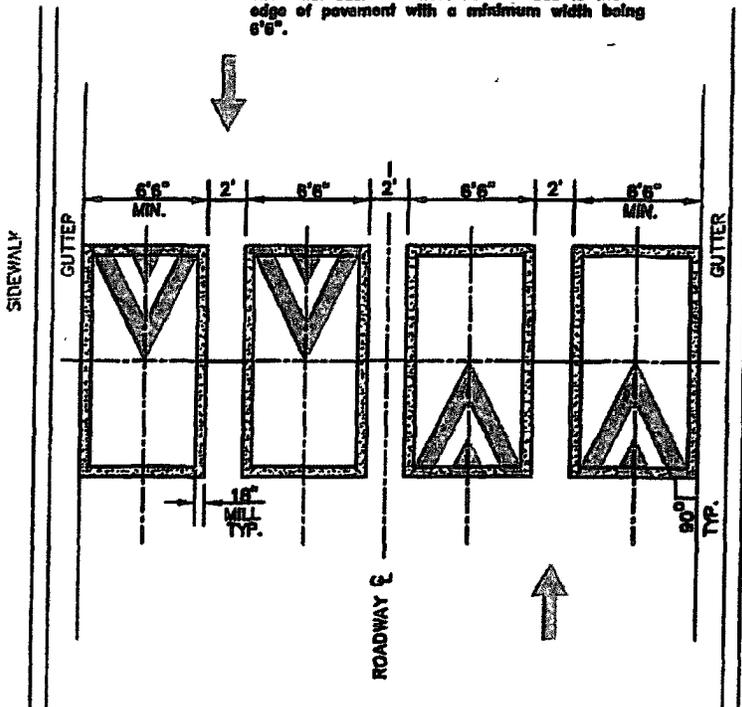
**Grand Total For Bid Alternate**      \$ \_\_\_\_\_

**Grand Total For Both Sections**      \$ \_\_\_\_\_

## **APPENDIX**

- 1. SPEED CUSHION DETAIL**
- 2. LOCATIONS FOR SPEED CUSHIONS**
- 3. SAMPLE CONTRACT**

**IMPORTANT:** To gain maximum effect, Cushions must be constructed as per the shown detail, with an allowable tolerance of  $\pm 0.25"$ . Contractors must comply based on consideration for emergency and fire department vehicles. Because of this concern, any deviation from the shown dimensions must be corrected at the contractor's expense. The outer cushions must be extended to the edge of pavement with a minimum width being 6'6".



**NOTES:**

1. DETAILS SHOW APPROXIMATE ELEVATIONS FOR SPEED CUSHION.
2. SPEED CUSHIONS MUST BE PLACED AT LOCATIONS APPROVED AND SPECIFIED BY THE CITY OF GLENDALE TRANSPORTATION DEPARTMENT.
3. CENTERLINE STRIPE MAY NOT BE IN THE CENTER OF THE ROADWAY, BUT IF NOT STRIPED, POSITION CUSHIONS SYMMETRICAL TO CENTER OF ROADWAY.
4. POSITION SPEED CUSHIONS ON STRAIGHT SECTIONS OF ROADWAY.
5. SPEED CUSHIONS SHALL NOT BE PLACED OVER MANHOLES, WATER VALVES, JUNCTION CHAMBERS, SURVEY MONUMENTS, ADJACENT TO FIRE HYDRANTS OR IN CONFLICT WITH DRIVEWAYS.
6. THIS DETAIL IS NOT APPROPRIATE FOR STREETS LESS THAN 36' WIDE. ON STREETS LESS THAN 36' WIDE, ONLY TWO BUTS SHALL BE SPACED AT 6'6". THE BUTS SHALL BE CONSTRUCTED 3'3" FROM CENTER OF THE ROADWAY.
7. CUSHIONS TO BE CONSTRUCTED WITH AN APPROVED 0.5 MIN HOT MIX, AC DESIGN LISTED IN APPROVED MIXES AVAILABLE AT: [www.glendale.com/engineering/publication.cfm](http://www.glendale.com/engineering/publication.cfm), OR MAG 3/8" MIX.
8. EXISTING ROADWAY SHALL BE MILLED TO A WIDTH OF 18" AND MINIMUM DEPTH OF 1.5" AROUND THE PERIMETER OF EACH CUSHION. MILLING ADJACENT TO A CURB CAN TAPER FROM 0" AT THE CURB TO 1.5".
9. A TACK COAT SHALL BE APPLIED PRIOR TO APPLICATION OF ASPHALT.
10. CONTRACTOR SHALL STAY WITH THE TACK COAT UNTIL IT DRIES TO WARN MOTORISTS. IT IS CONTRACTOR'S RESPONSIBILITY TO MAINTAIN ONE TRAVEL LANE CLEAR OF DEBRIS, INCLUDING THE TACK COAT THAT HAS NOT DRIED.
11. CONTRACTOR SHALL PROVIDE VERIFICATION OF DIMENSIONS.
12. CONTRACTOR SHALL STRIPE THE CUSHIONS AS PER ATTACHED PAVEMENT MARKING DETAIL AND PER THE CITY'S STRIPING SPECIFICATION.
13. CONTACT THE CITY OF GLENDALE SIGN SHOP (626.950.2785) ONE WEEK PRIOR TO INSTALLATION TO COORDINATE SIGNING.

NOT TO SCALE



**TRANSPORTATION DEPARTMENT  
SPEED CUSHION**

TRANSPORTATION ENGINEERING

STANDARD DETAIL

MARCH 2008

DRAWN BY:

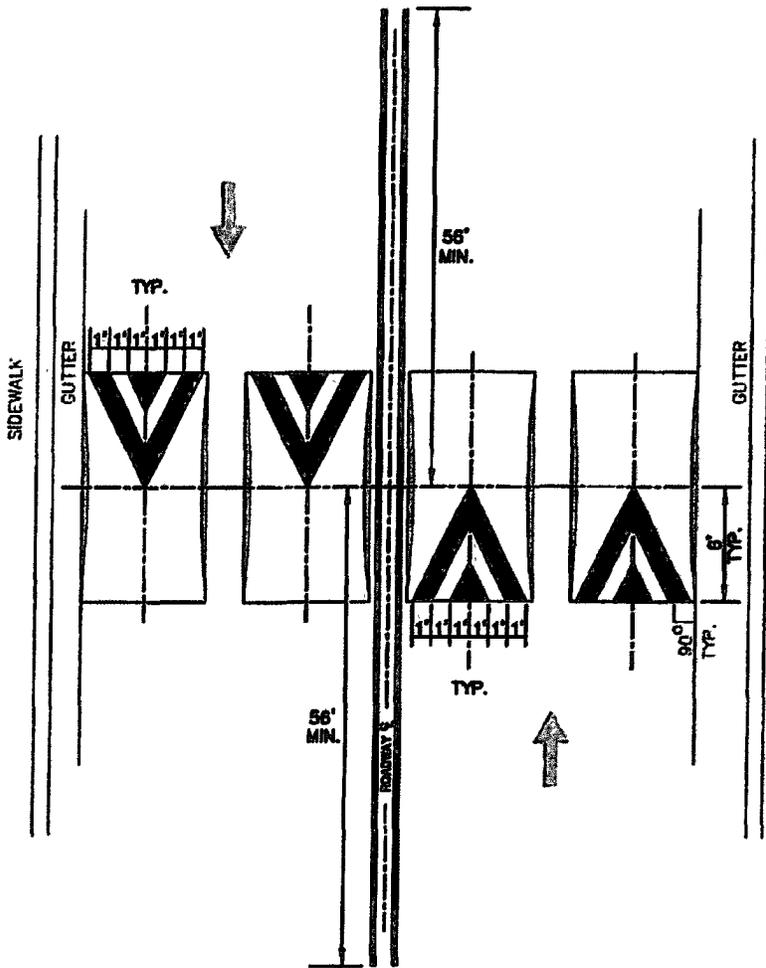
*Pete Aguilera* 2-25-08  
PETE AGUILERA DATE

DESIGNED BY:

*Chris Lemka* 3/05/08  
CHRIS LEMKA, P.E. DATE

APPROVED BY:

*Jamshed Mehta* Mar 25 2008  
JAMSHED MEHTA A.T.C.P. DATE



SIDEWALK

**NOTES:**

1. ON THE SAME DAY OF INSTALLATION, CONTRACTOR SHALL STRIPE THE CUSHIONS WITH WATER BASED PAINT PER CITY OF GLENDALE SUPPLEMENTAL SPECIFICATIONS FOR PAVEMENT MARKINGS.
2. CONTRACTOR SHALL PERMANENTLY STRIPE THE SPEED CUSHIONS WITH 12" WHITE MARKINGS 30 DAYS AFTER INSTALLATION.
3. PERMANENT STRIPING SHALL BE 2M STA-MARK SERIES 5M5-5730 OR APPROVED EQUIVALENT.
4. APPLY 2M CONTACT CEMENT, E-44 OR APPROVED EQUIVALENT TO THE ROADWAY FOR STRIPING INSTALLATION.
5. CENTERLINE STRIPING, IF ANY, SHALL BE DOUBLE YELLOW AND BE A MINIMUM OF 56" FROM CENTER OF SPEED CUSHION. LENGTH OF STRIPING TO BE DETERMINED BY THE TRANSPORTATION DEPARTMENT.

NOT TO SCALE



**TRANSPORTATION DEPARTMENT  
SPEED CUSHION**

TRANSPORTATION ENGINEERING

PAVEMENT MARKINGS DETAIL

MARCH 2008

DRAWN BY:

*Pete Aguilera*  
PETE AGUILERA

3-25-08  
DATE

DESIGNED BY:

*Chris Lemka*  
CHRIS LEMKA P.E.

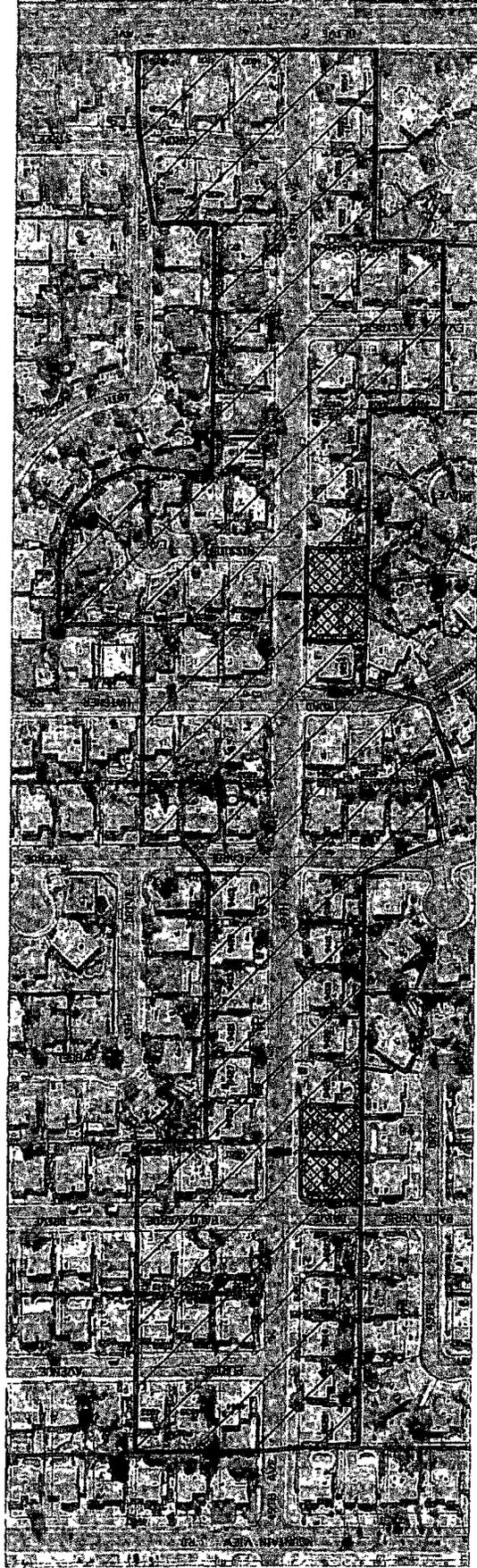
3/27/08  
DATE

APPROVED BY:

*Jamsheed Mehta*  
JAMSHEED MEHTA A.I.C.P.

Mar 25  
2008  
DATE

**49th AVE: OLIVE AVE TO MOUNTAIN VIEW RD  
PETITION AREA**



**LEGEND**

-  -Proposed Speed Cushion
-  -Homes in the petition area



Transportation Services Department  
5800 W. Glenn Drive, Suite 315  
Glendale, Arizona, 85301

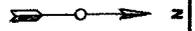
**79th AVE: BETHANY HOME RD TO DISCOVERY DR  
PETITION AREA**



- LEGEND**
-  Proposed Speed Quarter
  -  Homes in the petition area

  
TRANSPORTATION SERVICES DEPARTMENT  
5800 W. GLENN DRIVE, SUITE 315  
GLENDALE, ARIZONA, 85301

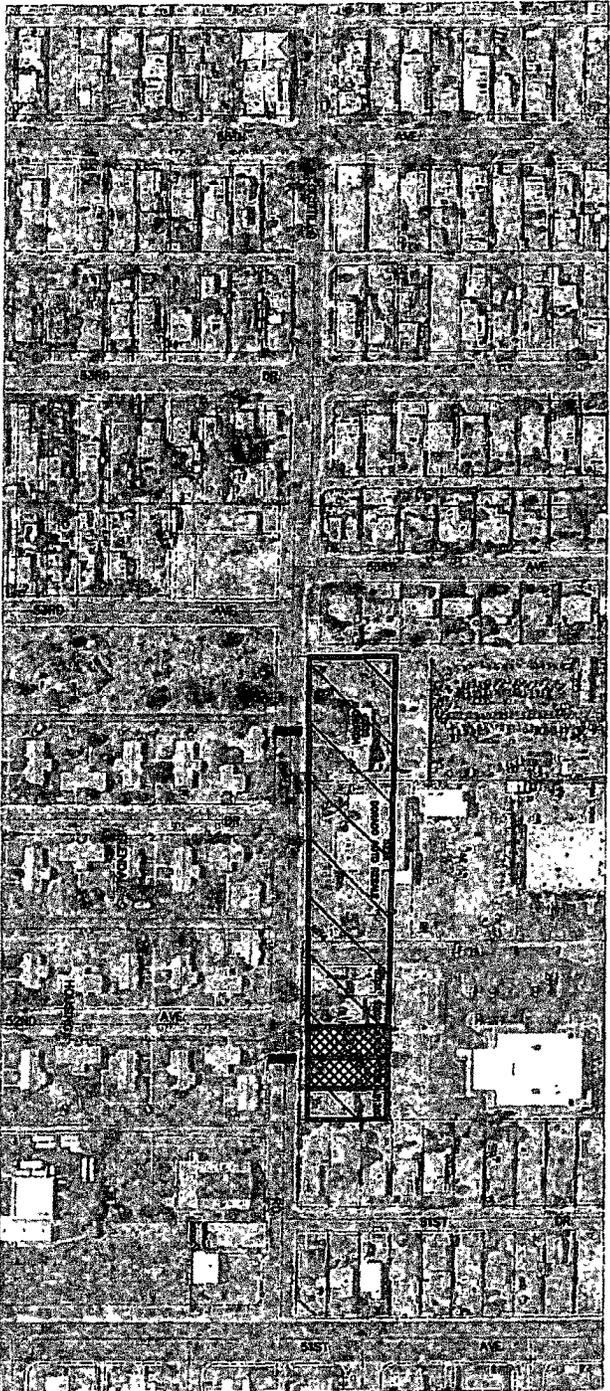
MOUNTAIN VIEW RD: 55TH AVE TO 59TH AVE  
PETITION AREA



- LEGEND**
- ▬ Proposed Speed Cushion
  - ▨ Homes in the petition area

  
TRANSPORTATION SERVICES DEPARTMENT  
5800 W. GLEN DRIVE, SUITE 315  
GLENDALE, ARIZONA, 85301

**OCOTILLO RD: 51ST AVE TO 53RD AVE  
PETTITON AREA**



- LEGEND**
-  -Proposed Speed Caution
  -  -Changes in the petition area

  
Transportation Services Department  
5800 W. Glenn Drive, Suite 315  
Glendale, Arizona, 85301

**GROVERS AVE: 59TH AVE TO 63RD AVE**

**PETITION AREA**



**LEGEND**

-  -Proposed Speed Cushion
-  -Homes in the petition area



Transportation Services Department  
5800 W. Glen Drive, Suite 315  
Glendale, Arizona, 85301

45th AVE: GLENDALE AVE TO ORANGEWOOD AVE  
SPEED HUMPS IN NEED OF REPLACEMENT



**LEGEND**

 -EXISTING SPEED HUMPS (IN NEED OF REPLACEMENT)

  
GLENDALE  
Transportation Services Department  
5900 W. Glenn Drive, Suite 315  
Glendale, Arizona, 85301

**EXHIBIT B  
CONSTRUCTION AGREEMENT**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Payment will be made based on unit pricing in the bid response for work performed as verified by the City.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$35,894.08.

**DETAILED PROJECT COMPENSATION**

See Attached Response to Bid.

**2.0 OFFER**

Bidder certifies that they have read, understand, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Bidder also certifies that the prices offered were independently developed without consultation with any of the other bidders or potential bidders.

|   |   |
|---|---|
| <br>Authorized Signature | <u>Swaine Asphalt Corp</u><br>Company's Legal Name      |
| <u>Tom Swaine</u><br>Printed Name   | <u>2413 S 21<sup>st</sup> St</u><br>Address             |
| <u>Vice-President</u><br>Title  | <u>Phoenix AZ 85034</u><br>City, State & Zip Code       |
| <u>(602) 371 3110</u><br>Telephone Number   | <u>(602) 371 8125</u><br>FAX Number                     |
| <u>tom.swaine@asphalt.com</u><br>Authorized Signature E-mail Address                                      | <u>tom.swaine@asphalt.com</u><br>Company E-mail Address |

**For questions regarding this offer: (if different from above)**

|  |                                       |                                     |
|--|---------------------------------------|-------------------------------------|
| <u>Tom Swaine</u><br>Contact Name                      | <u>(602) 371-2481</u><br>Phone Number | <u>(602) 371-8125</u><br>Fax Number |
| <u>tom.swaine@asphalt.com</u><br>Contact Email Address |                                       |                                     |

FEDERAL TAXPAYER ID NUMBER: 

Arizona Sales Tax No.  Tax Rate 10.8%

Bidder certifies it is a: Proprietorship  Partnership  Corporation

Minority or woman owned business: Yes  No

**3.0 PRICE**

| Item No.                            | Estimated Quantity          | Item (Description)  | Unit Price                   | Total                         |
|-------------------------------------|-----------------------------|---|------------------------------|-------------------------------|
| 1                                   | 10 EACH                     | New Speed Cushions (see attached Detail and Locations)  | \$ <u>2,295<sup>00</sup></u> | \$ <u>22,950<sup>00</sup></u> |
| 2                                   | 1 EACH                      | New Staggered Speed Cushion on Grovers Avenue   | \$ <u>2,295<sup>00</sup></u> | \$ <u>2,295<sup>00</sup></u>  |
| 3                                   | 2,700 LF<br>(4" equivalent) | 4" Double Yellow Striping   | \$ <u>35</u>                 | \$ <u>9,450<sup>00</sup></u>  |
| 4                                   | 2,000 LF<br>(4" equivalent) | 6" Solid White Striping (Assumed for bike lanes adjacent to 7 speed cushions)   | \$ <u>30</u>                 | \$ <u>6,000<sup>00</sup></u>  |
| 5                                   | 44 EACH                     | Water Based Painted Chevron (to be installed the day as the speed cushion installation)                                       | \$ <u>28<sup>00</sup></u>    | \$ <u>1,232<sup>00</sup></u>  |
| 6                                   | 44 EACH                     | 3-M tape or approved equivalent chevron pavement markings to be installed 30 to 45 days after the speed cushion is installed. | \$ <u>125<sup>00</sup></u>   | \$ <u>5,500<sup>00</sup></u>  |
|                                     |                             |   | Tax % <u>7.62</u>            | \$ <u>2,351<sup>48</sup></u>  |
| <b>Grand Total For This Section</b> |                             |   |                              | \$ <u>35,274<sup>08</sup></u> |

**BID ALTERNATE (SUBJECT TO APPROVAL OF THE CITY)**

|    |        |   |                            |                              |
|----|--------|---|----------------------------|------------------------------|
| 1A | 4 EACH | Removal of 4 existing speed cushions on 45 <sup>th</sup> Avenue between Glendale Avenue and Orangewood (see attached map) | \$ <u>1,700</u>            | \$ <u>6,800<sup>00</sup></u> |
| 2A | 4 EACH | New Speed Cushions (see attached Detail)  | \$ <u>550<sup>00</sup></u> | \$ <u>2,200<sup>00</sup></u> |

|    |          |   |                             |                               |
|----|----------|---|-----------------------------|-------------------------------|
| 3A | 1,000 LF | 4" Double Yellow Striping   | \$ <u>35</u>                | \$ <u>3,500</u> <sup>00</sup> |
| 4A | 16 EACH  | Water Based Painted Chevron (to be installed the day as the speed cushion installation)                                       | \$ <u>22.15</u>             | \$ <u>354</u> <sup>10</sup>   |
| 5A | 16 EACH  | 3-M tape or approved equivalent chevron pavement markings to be installed 30 to 45 days after the speed cushion is installed. | \$ <u>125</u> <sup>00</sup> | \$ <u>2,000</u> <sup>00</sup> |

Tax % 10.2 \$ 1,291<sup>89</sup>

**Grand Total For Bid Alternate** \$ 14,696<sup>39</sup>

**Grand Total For Both Sections** \$ 55,590<sup>47</sup>

**EXHIBIT C**  
**CONSTRUCTION AGREEMENT**

DISPUTE RESOLUTION

**1. Disputes.**

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
- a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
  - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
  - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

**2. Arbitration.**

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
- a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
  - b. The arbitrator selected must be an attorney with at least 15 years experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently

alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. **Exceptions.**

4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Contractor.

4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.