

CITY CLERK ORIGINAL

C-9914
04/14/2015

**AGREEMENT WITH SOUTHWEST FABRICATION, L.L.C.
FOR
STREETLIGHT POLES AND ARMS
City of Glendale Solicitation No. 15-52**

This Agreement for Supply of Streetlight Poles and Arms ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Southwest Fabrication, L.L.C., an Arizona limited liability company, (the "Contractor"), as of the 14 day of APRIL, 2015.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, pursuant to Solicitation No. 15-52 (the "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 attached hereto;
- 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. Key Personnel; Sub-contractors.

1.1 Services. Contractor will provide all services 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 or consultants, retained by City.

1.2 Project Team.

a. Project Manager.

- (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, 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;
- (2) The City must approve the designated Project Manager; and
- (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.

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. Discharge, Reassign, Replacement.

- (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.

- (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.
- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. 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 services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

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 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 Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis 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.

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").
- b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, 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 Work Product.

- a. Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.
 - (3) In such case, City shall also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$411,987.81, as specifically detailed in **Exhibit B** (the "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.

- a. Adjustments to the 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 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. 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 or as specified in the solicitation.

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.

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 30 days following the date of delivery.

- a. Contractor will be equitably compensated for Goods or Services 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, in accordance with the provision of § 5.
- 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 of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **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.

8. **Insurance.**

8.1 **Requirements.** Contractor (Vendor) shall procure and maintain, until all of their obligations, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to person or damage to property that may arise from or in connection with the purchase and or use of the commodity.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City of Glendale in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees, or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage at least as broad and with limits of liability not less than those stated below.

(1) **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$ 50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed (**Blanket Endorsements are not acceptable**) to include the following additional insured language: “The City of Glendale, and its departments, boards, commissions, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.” Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a waiver of subrogation endorsement (**Blanket Endorsements are not acceptable**) in favor of the “City of Glendale, and its departments, boards, commissions, officers, officials, agents, and employees” for losses arising from work performed by or on behalf of the Contractor.

(2) **Business Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed (**Blanket Endorsements are not acceptable**) to include the following additional insured language: “The City of Glendale, and its departments, boards, commissions, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the

Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a severability of interest provision.

(3) **Worker's Compensation and Employers' Liability**

• Workers' Compensation	Statutory
• Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

a. Policy shall contain a waiver of subrogation endorsement (**Blanket Endorsements are not acceptable**) in favor of the "City of Glendale, and its departments, boards, commissions, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed (**Blanket Endorsements are not acceptable**) to contain, the following provisions:

(1) The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance and/or self-insurance carried by the City of Glendale shall be excess and not contributory insurance.

(2) Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the City of Glendale. Such notice shall be sent directly to the Department.

D. ACCEPTABILITY OF INSURERS: Contractors insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The City of Glendale in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the City of Glendale with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements (**Blanket Endorsements are not acceptable**) are to be received and approved by the City of Glendale Department before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to

maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this contract shall be sent directly to **the Department**. The City of Glendale project/contract number and project description are to be noted on the certificate of insurance. The City of Glendale reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Risk Management. Such action will not require a formal Contract amendment, but may be made by administrative action.
- G. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance.

8.2 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 the Required Insurance whenever requested.

8.3 Indemnification.

- a. To the extent allowed by law, Contractor shall defend, indemnify, and hold harmless the City of Glendale, and its departments, boards, commissions, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fee, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees, or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the City of Glendale, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the City of Glendale.
- 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.

9. Immigration Law Compliance.

- 9.1 Contractor, and on behalf of 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.
- 9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 9.3 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 9.1 above.
- 9.4 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 9.1 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.
- 9.5 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.
- 9.6 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.
- 9.7 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.

10. Notices.

- 10.1 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 overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - 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 service 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; and
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

10.2 Representatives.

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

Southwest Fabrication, L.L.C
c/o Kyle J. Presler
22233 North 23rd Avenue
Phoenix, Arizona 85027

- 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
c/o Mike Sills-Trausch
5850 West Glendale Avenue, Suite 315
Glendale, Arizona 85301
623-930-3630

With required copy to:

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

City Attorney
City of Glendale
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 deemed 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.

11. **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.

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

12.1 **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. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums

and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

12.2 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.

12.3 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.

12.4 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. Electronic signature blocks do not constitute execution.

12.5 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.

12.6 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 deemed reformed to conform to applicable law.

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

13. **Term.** The term of this Agreement commences upon the effective date and continues for a one year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four years, renewable on an annual basis. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

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

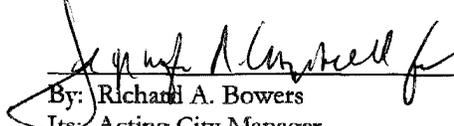
15. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation
Exhibit C	Dispute Resolution

(Signatures appear on the following page.)

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

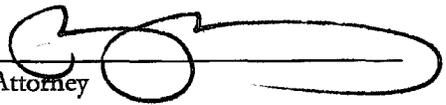
City of Glendale,
an Arizona municipal corporation


By: Richard A. Bowers
Its: Acting City Manager

ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

Southwest Fabrication, L.L.C.,
an Arizona Limited Liability Company

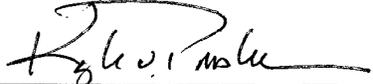

By: Kyle J. Pressler
Its: Member 

EXHIBIT A

PROJECT

[See attached]

Scope of contract includes the supply and delivery of new streetlight poles and arms, not to include installation, per the detailed Invitation for Bid (IFB 15-52).

EXHIBIT B
IFB 15-52
COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

By bid, based on unit cost of material provided.

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 \$411,987.81 (\$137,629.27 annually).

DETAILED PROJECT COMPENSATION

See the attached Unit Pricing for IFB-15-52.



SOLICITATION NUMBER: IFB 15-52
STREETLIGHT POLES AND ARMS

CITY OF GLENDALE
 Materials Management
 5850 West Glendale
 Avenue, Suite 317
 Glendale, Arizona 85301

4.0

PRICE SHEET

4.1 **PRICE** Unit Price represents the price of each unit which includes shipping, fuel, insurance and any other associated direct or indirect costs (except taxes).

STEEL POLES AND MASTS					
Item No.	Estimated Quantities (A)	Unit of Measure	Description	Unit Price (B)	Extended Amount (A X B)
4.1.1	8	Each	Mast Arm, 3' Radius, Luminary Support, SRP Residential, Spec A-1	\$ 50.00	\$ 400.00
4.1.2	5	Each	Mast Arm, 6' Radius, Luminary Support, SRP Arterial, Spec A-2	\$ 72.00	\$ 360.00
4.1.3	17	Each	Mast Arm, 6' x 1'8", Luminary Support, Spec A-3	\$ 62.00	\$ 1,054.00
4.1.4	2	Each	Mast Arm, 8' x 3', Luminary Support, APS, Spec A-4	\$ 71.00	\$ 142.00
4.1.5	1	Each	Mast Arm, 8' x 3', Luminary Support, APS, Spec A-4, painted dark bronze	\$ 77.00	\$ 77.00
4.1.6	6	Each	Mast Arm, 8' x 8', Luminary Support, APS, Spec A-5	\$ 93.00	\$ 558.00
4.1.7	8	Each	Mast Arm, 12' x 8', Luminary Support, Straight 3-Bolt Shoe Spec A-6	\$ 122.00	\$ 976.00
4.1.8	1	Each	Mast Arm, 4'3" x 8', Luminary Support, Spec A-7	\$ 77.00	\$ 77.00
4.1.9	1	Each	Mast Arm, 18", Luminary Support, Spec A-8	\$ 40.00	\$ 40.00
4.1.10	10	Each	Mast Arm, 8' x 3', Luminary Support, for Steel Pole on Breakaway Base	\$ 71.00	\$ 710.00
4.1.11	1	Each	Mast Arm, 20' 3-Bolt Plate, Modified G	\$ 195.00	\$ 195.00
4.1.12	1	Each	High Rise Mast Arm for wood poles	\$ 111.00	\$ 111.00
4.1.13	56	Each	Hand Hole Cover, 3" x 5" Galvanized Rectangle, for poles P-1, P-3, P-5, P-8	\$ 6.50	\$ 364.00
4.1.14	5	Each	Hand Hole Cover, 3" x 6" Rectangle with Cleat	\$ 6.50	\$ 32.50



SOLICITATION NUMBER: IFB 15-52
STREETLIGHT POLES AND ARMS

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

4.1.15	5	Each	Hand Hole Cover, 3" x 5" Rectangle, Black, for P-2 Pole	\$ 6.50	\$ 32.50
4.1.16	27	Each	Hand Hole Cover, 3" x 5.5" Flat Oval with Cleat	\$ 6.50	\$ 175.50
4.1.17	1	Each	Hand Hole Cover, 3" x 5.5" Flat Oval with Cleat, Painted Black	\$ 6.50	\$ 6.50
4.1.18	2	Each	Hand Hole Cover, 7.5" x 5.25" Galvanized Flat Oval with Cleat	\$ 6.50	\$ 13.00
4.1.19	45	Each	Hand Hole Cover, 4" x 6" Galvanized, Contoured, for P-7 Pole	\$ 6.50	\$ 292.50
4.1.20	4	Each	Hand Hole Cover, 5" x 7.5" Galvanized Oval	\$ 6.50	\$ 26.00
4.1.21	40	Each	Pole, Luminary Support on 22' on Foundation, Spec P-1	\$ 379.00	\$ 15,160.00
4.1.22	10	Each	Pole, Luminary Support W/ Arm on Foundation, 6" Square x 29' 6" Black, Split Cover, Spec P-2	\$ 720.00	\$ 7,200.00
4.1.23	150	Each	Pole, Luminary Support on 30.5' Direct Bury, Spec P-3	\$ 325.00	\$ 48,750.00
4.1.24	50	Each	Pole, Luminary Support 4" Square x 34' Black Direct Bury, Spec P-4	\$ 350.00	\$ 17,500.00
4.1.25	25	Each	Pole, Luminary Support on 31' Direct Bury, SRP Arterial, Spec P-5	\$ 298.00	\$ 7,450.00
4.1.26	25	Each	Pole, Residential Post Top, 23' 6" Black, Direct Bury, Spec P-6	\$ 163.00	\$ 4,075.00
4.1.27	20	Each	Pole, Luminary Support, 38' 6" Black, Direct Bury, Arterial, Spec P-7	\$ 438.00	\$ 8,760.00
4.1.28	1	Each	Pole, Luminary Support 30' 6" Direct Bury, Spec P-3, Painted Dark Bronze	\$ 366.00	\$ 366.00
4.1.29	1	Each	Pole, Luminary Support 22' on Foundation, Modified for Traffic Signal Base, Spec P-8	\$ 434.00	\$ 434.00
4.1.30	1	Each	Pole, Luminary Support 22' on Foundation, Double Mast Arms for Medians, Spec P-9	\$ 428.00	\$ 428.00
4.1.31	1	Each	Pole, Luminary Support 16' 3" on Foundation, G Pole (Modified P-1)	\$ 401.00	\$ 401.00
4.1.32	1	Each	Pole, Luminary Support 30' on		



SOLICITATION NUMBER: IFB 15-52
STREETLIGHT POLES AND ARMS

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

			Foundation, Spec P-10	\$ 475.00	\$ 475.00
4.1.33	1	Each	Pole, Luminary Support 38'6" Direct Bury, Spec P-11	\$ 471.00	\$ 471.00
4.1.34	10	Each	Steel Pole with Breakaway Base, Luminary Support 27' on Foundation	\$ 872.00	\$ 8,720.00
4.1.35	2	Each	Base Cover for Round Pole, square shape. (See Exhibit 5.30)	\$ 27.00	\$ 54.00
4.1.36	2	Each	Base Cover for Round Pole, square shape with rounded edges (See Exhibit 5.31)	\$ 54.00	\$ 108.00
4.1.37	15	Each	Base Cover for P2 Pole, square shape, black color (See Exhibit 5.32)	\$ 27.00	\$ 405.00
4.1.38	15	Each	Base Cover for P1 Pole, round shape (See Exhibit 5.33)	\$ 27.00	\$ 405.00
Total Steel Poles and Masts (Item 4.1.1 through 4.1.38)					\$ 126,804.50

NON-STEEL POLES AND ARMS

Item No.	Estimated Quantities (A)	Unit of Measure	Description	Unit Price (B)	Extended Amount (A X B)
4.1.39	10	Each	Shakespeare or approved equivalent aluminum Mast Arm 4' x 12', Luminary Support	\$ No Bid	\$ No Bid
4.1.40	10	Each	Shakespeare or approved equivalent fiberglass Pole Luminary Support 33', Direct Bury	\$	\$
4.1.41	2	Each	Shakespeare hand hole cover for fiberglass post top poles, Part No. 37-75-0038-60 or approved equivalent. Black color; approximate dimensions: 5" vertical, 4.5" diagonal, and 2.5" horizontal. (See Exhibit 5.28)	\$	\$
4.1.42	2	Each	Shakespeare hand hole cover for fiberglass post top poles, or approved equivalent. Approximate dimensions: 5.5" vertical, 4.75"	✓	✓

 <p>GLENDALÉ</p>	<p align="center">SOLICITATION NUMBER: IFB 15-52</p> <p align="center">STREETLIGHT POLES AND ARMS</p>	<p>CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301</p>
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		diagonal, and 3" horizontal. (For Grand Avenue fiberglass poles.) (See Exhibit 5.29)	No Bid \$	No Bid \$
Total Fiberglass Poles and Masts (Item 4.1.39 through 4.1.42)				\$ No Bid
Grand Total Poles and Masts (Item 4.1.1 through 4.1.42)				\$ 126,804.50

4.2 **TAX AMOUNT** Bidder should not include any use tax or federal tax in their bid price. The City is exempt from the payment of federal excise tax and will add use tax as applicable. For the purpose of determining the lowest cost, the City will not take tax into consideration. Tax: 8.3 %

4.3 **DELIVERY** Bidder states that all orders shall be delivered within 30 calendar days after receipt of notification.

4.4 **PROCUREMENT CARD ORDERING CAPABILITY** Please check appropriate box.

YES, I will accept payment under this contract with the Procurement Card.

NO, I will not accept payment under this contract with the Procurement Card.

Company Name: SOUTHWEST FABRICATION, LLC

EXHIBIT C

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 parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial 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 10 years experience, 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 (10) 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.