

**CITY CLERK
ORIGINAL**

**C-9239
09/26/2014**

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
WESTERN TECHNOLOGIES, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of September 26, 2014, between the City of Glendale, an Arizona municipal corporation (the "City"), and Western Technologies, Inc., an Arizona corporation ("Contractor"), collectively, the "Parties."

RECITALS

On 10/02/2012, the State of Arizona entered into a contract with Contractor to purchase the goods and services described in the **Statewide Environmental Consulting Services for Asbestos and Lead Contract, Contract No. ADSPO12-033368**, which is attached hereto as **Exhibit A**. The **Statewide Environmental Consulting Services for Asbestos and Lead Contract** permits cooperative use of its terms and conditions by other governmental agencies including the City. The **Statewide Environmental Consulting Services for Asbestos and Lead Contract** is hereinafter referred as the Cooperative Purchasing Agreement.

- A. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- B. Section 2-149 also provides that Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of City Code Sections 2-145 and 2-146.
- C. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

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

- 1 Term of Agreement. The City is purchasing the supplies and/or services from Contractor pursuant to Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement award and rate sheet, which are attached hereto as part of Exhibit B, purchases can be made by governmental entities from

the date of award, which was **10/02/2012**, until the date the contract expires on **10/01/2014**, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not extend the contract beyond **10/01/2017**. Renewals are not automatic and shall only occur if the State gives the Contractor notice of its intent to renew. The City may renew this Agreement if the State renews its Cooperative Purchasing Agreement and the City notifies the Contractor of its intent to renew 30 days prior to the expiration of any existing contract term.

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

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

3. Compensation.

- a) City shall pay Contractor compensation at the same rate and on the same schedule as the Cooperative Purchasing Agreement, unless the City and Contractor agree otherwise, as provided in **Exhibit C** hereto.
- b) The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed **\$48,000.00** for the entire term of this Agreement, including the initial term and any renewal terms the City wishes to exercise in accordance with Paragraph 1 above.

4. Cancellation. This Agreement may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.

5. E-verify. Contractor complies with ARIZ. REV. STAT. § 23-214 and agrees to comply with the requirements of ARIZ. REV. STAT § 41-4401.

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

City of Glendale
c/o Ron Gouger
6210 W. Myrtle Avenue, Suite #111
Glendale, Arizona 85301
623-930-2647

and

Western Technologies, Inc.
c/o Vicky L. Aviles
3737 E. Broadway Road
Phoenix, AZ 85040
602-437-3737 ext 137

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

“City”

City of Glendale, an Arizona
Municipal corporation

By: 

Brenda S. Fischer, City Manager

“Contractor”

Western Technologies, Inc.,
an Arizona corporation

By: 

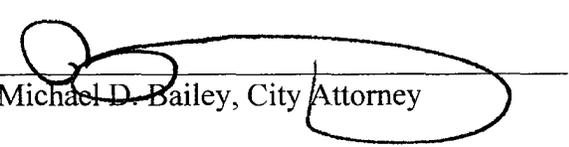
Vicky L. Aviles, Principal

ATTEST:



Pamela Hanna, City Clerk (SEAL)

Approved as to Form:



Michael D. Bailey, City Attorney

EXHIBIT A

State of Arizona Contract No. ADSPO12-033368 – Statewide Environmental Consulting Services



Master Blanket Purchase Order ADSP012-033368

Header Information

Purchase Order Number:	ADSP012-033368	Release Number:	0	Short Description:	Statewide Environmental Consulting Services for Asbestos and Lead
Status:	3PS - Sent	Purchaser:	Brian Ball	Receipt Method:	Quantity
Fiscal Year:	2013	PO Type:	Blanket	Minor Status:	
Organization:	State of Arizona	Location:	STRGC - SPO Strategic	Type Code:	Statewide
Department:	ADSP0 - State Procurement Office	Entered Date:	10/02/2012 05 17 28 PM	Control Code:	
Alternate ID:		Retainage %:	0 00%	Discount %:	0 00%
Days ARO:	0	Release Type:	Direct Release	Pcard Enabled:	Yes
Print Dest Detail:	If Different	Tax Rate:		Actual Cost:	\$0 00
Catalog ID:					
Contact Instructions:	brian.ball@azdoa.gov				

Master Blanket/Contract End Date (Maximum): 10/01/2017 11 59 59 PM

Project No.:
Building Code:
Cost Code:
Special Purchase Types:
PIJ NUMBER:
Coop Spend To Date:

Attachments: [PO Terms & Conditions, Solicitation File ADSP012-00001567 Statewide Environmental Consulting for Asbestos and Lead-6 zip, Consolidated Contract File ADSP012-033368 zip, ADSP012-033368 Insurance 2 28 14 pdf, Western Technologies COI - Expires 1 1 15 pdf, Change Order 02 Summary ADSP012-033368 11 25 13 doc, Change Order 01 Summary ADSP012-033368 doc](#)

Primary Vendor Information & PO Terms

Vendor:	9000005115 - WESTERN TECHNOLOGIES INC Steve Smelser 3737 East Broadway Road Phoenix, AZ 85040 US Email s.smelser@wt-us.com Phone (602)437-3737 Ext 137 FAX (602)470-1341	Payment Terms:	Net 30	Shipping Method:	Best Way
		Shipping Terms:	N/A	Freight Terms:	Freight Prepaid and Charged Back

PO Acknowledgements: Document Notifications Acknowledged Date/Time



Scope of Work

State of Arizona
State Procurement Office
100 N 15th Ave , Suite 201
Phoenix, AZ 85007

Description **Statewide Environmental Consulting Services for Asbestos and Lead**

1 INTRODUCTION

1 1 BACKGROUND The State of Arizona (The State) is seeking qualified environmental consulting firms to provide asbestos and lead consulting services. The Contractor(s) will be responsible for providing asbestos and lead surveys, development of specifications and drawings, remediation oversight services and other related environmental consulting services to Agencies/Organizations authorized to acquire services under this contract (Hereinafter "Using Agency") The Contractor may also assist the Using Agency in meetings and negotiations with regulators, property owners, potential responsible parties, and other interested parties, including the general public. The consultant shall provide the professional services in accordance with the provisions and requirements described under this contract on an as needed, if needed basis.

1 2 SCOPE The Consultant's work shall include, but shall not be limited to

- 1 2 1 Inspect requested State facilities and/or facility components for asbestos containing materials (ACM), or lead containing materials (LCM),
- 1 2 2 Develop recommendations for remedial action,
- 1 2 3 Production of survey reports in accordance with timely laboratory analysis to identify the presence type and extent of ACM/LCM,
- 1 2 4 Development of management plans or abatement project design/management to be used in site abatement contracts, specifications and engineering drawings,
- 1 2 5 Construction administration services to manage abatement activities, Air monitoring,
- 1 2 6 Air monitoring,
- 1 2 7 Monitoring and evaluation of abatement activities, final clearance, and other project related services as requested by the State

1 3 REGULATORY COMPLIANCE The Consultant shall comply with the requirements of all applicable Federal, State, County, or Local rules and regulations and any revisions which govern the services required under this contract. Applicable regulations include but are not limited to the following:

- 1 3 1 National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M
- 1 3 2 Asbestos Hazard Emergency Response Act (AHERA), 40 CFR Part 763, Subpart E
- 1 3 3 Occupational Safety and Health Administration (OSHA) 29 CFR Parts 1910 and 1926
- 1 3 4 Housing and Urban Development (HUD) 24 CFR, Parts 5, 35, 58, 200
- 1 3 5 Environmental Protection Agency (EPA) 40 CFR Part 745

2. ASBESTOS/LEAD SURVEY

The Consultant shall provide surveys that meet at a minimum the following requirements:

- 2 1 The survey shall be performed by an individual accredited as an Asbestos Inspector for asbestos and EPA Inspector or Risk Assessor for Lead. The survey shall be performed in accordance with AHERA regulations for asbestos and EPA regulations for lead along with all other applicable federal, state and local regulations.
- 2 2 Comprehensive Building Asbestos Surveys shall conform to the American Society for Testing and Materials standard, ATSM E2356-09 (Standard Practice for Comprehensive Building Asbestos Surveys)
- 2 3 The purpose of the survey shall be to locate, inspect, assess, and sample all suspect materials where required. Identify all ACM as to type, condition, percent of asbestos content, and quantity. The inspection shall be performed in accordance with the requirements of OSHA and NESHAP and following the AHERA sampling protocol.
- 2 4 The following tasks shall be included in performance of Asbestos Surveys:
 - 2 4 1 Review of existing facility plans and records for reference to asbestos used in construction or repair, if available
 - 2 4 2 Physically inspect facility and list all suspect materials
 - 2 4 3 Sample all suspect materials and submit the samples to an accredited laboratory for asbestos analysis by Polarized Light Microscopy (PLM)



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- 2 5 The following tasks shall be included in performance of Lead Surveys
 - 2 5 1 Review of existing facility plans and records for reference to LCM used in construction and surface treatment
 - 2 5 2 Physically inspect facility and list all suspect materials
 - 2 5 3 Analyze paint by X-ray fluorescence (XRF) or submit paint chip samples to a qualified lab for analysis using an atomic absorption spectroscope (AAS)
 - 2 5 4 A Toxicity Characteristic Leaching Procedure (TCLP) test shall be performed for all structures being demolished in order to characterize the demolition waste stream for disposal The sample shall be composed of all representative components from the structure

- 2 6 Survey reports shall be in a format similar to AHERA inspection reports for asbestos and adhere to the requirements of EPA 40 CFR Part 745 for Lead and shall include, but are not necessarily limited to the following
 - 2 6 1 The date of the inspection
 - 2 6 2 Accredited person(s) performing inspection (Include signature, state of accreditation, and license accreditation number)
 - 2 6 3 Address and/or legal description and/or property description as required by Using Agency
 - 2 6 4 Physical description and use of the facility.
 - 2 6 5 Inventory of locations including but not limited to, Description and exact location of the materials sampled, date each sample was taken
 - 2 6 6 Description of the manner used to determine sampling locations, name and signature of each accredited inspector who collected the samples
 - 2 6 7 Floor plans, maps or drawings depicting the site & location of structures, where samples were collected (one per each structure), depicting types and location of all ACM/LCM
 - 2 6 8 Photos are encouraged but may be required by using agency
 - 2 6 9 Measurements shall be in linear feet for TSI/pipes, square feet for surfacing, and cubic feet for volume
 - 2 6 10 Description of the condition of the material
 - 2 6 11 Risk assessment of exposure potential
 - 2 6 12 Abatement cost and duration estimates (may be required by the Using Agency)
 - 2 6 13 Recommendations for ACMs/LCMs that are damaged or deteriorating
 - 2 6 14 Consultation with the Using Agency and/or monitoring for other contaminants that may affect the work place safety of work site and State employees.
 - 2 6 15 Copies of the laboratory sample analysis reports and laboratory certifications
 - 2 6 16 Copies of the Chain of Custody sheet for all samples collected
 - 2 6 17 Copies of the Inspector(s) or Risk Assessor(s) certifications
 - 2 6 18 Photographs of sample locations and materials (optional upon request)

3. MANAGEMENT PLANS

The Asbestos Consultant shall provide written management plans following AHERA protocol for public schools K-12 or similar as required by the Using Agency The management plan, which is a site-specific guidance document that the Using Agency designated person must follow in managing the ACM present in each facility, shall be prepared by an accredited management planner in accordance to AHERA requirements A management plan shall be updated to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspections and response action activities The required elements of the Management Plan shall include, but not necessarily be limited to the following

- 3 1 General Information - A list of the name and address of each building and whether the building contains friable ACM, non-friable ACM, assumed friable ACM, or assumed non-friable ACM



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- 3 2 Designated Person – The name, address, and telephone number of the designated person as required by AHERA and their training (course name, dates and hours of training)
- 3 3 *Inspector Information* - The date of inspection, name and signature of each accredited inspector making the inspection, state and accreditation number of each accredited inspector
- 3 4 *Sampling Information* – The description/diagrams of each building, date and exact location of each sample, homogeneous areas of assumed friable ACM and assumed non-friable ACM, methodology for determining sampling locations, name and signature of accredited inspector, accreditation information of inspector
- 3 5 *Assessment Information* – A description of the assessments required by 40 CFR 763 88, name, signature and accreditation information of person making the assessment
- 3 6 *Response Action Information* - A detailed description of preventive measure and response action to be taken, reasons for selecting the response action or preventative measure, schedule for beginning and completing each preventative measure or response action
- 3 7 *Information on ACM Remaining after Response Actions* – A description or diagram of remaining ACM once response actions are undertaken (Updated as soon as response actions are completed)
- 3 8 *Future Activities* - A written plan for re-inspection under 40 CFR 763 85, an operations and maintenance plan as required in 40 CFR 763, periodic surveillance under 40 CFR 763 92, additional cleaning recommendations and response
- 3 9 A cost estimate of the response actions

4. ABATEMENT PROJECT DESIGN

The Consultant shall designate one individual with a technical background and experience in similar asbestos/lead environmental projects to act as the Project Manager

- 4 1 Consultant personnel who prepare the abatement project design shall be accredited as follows
 - 4 1 1 Asbestos Abatement Project Design AHERA Project Designer (For Regulated ACM)
 - 4 1 2 Lead Abatement Project Design EPA Lead Project Designer or Lead Supervisor
- 4 2 The Consultant shall develop a project design that is site specific and includes the following *minimum requirements*
 - 4 2 1 Identify the materials to be abated and provide NESHAP category, OSHA class of work, and approximate quantities for each
 - 4 2 2 Provide abatement cost and duration estimates based on current conditions as determined during site Inspections as required by Using Agency The project duration shall be kept as short as possible and timing of each abatement activity shall be coordinated with the Using Agency to minimize negative impacts on the facility use
 - 4 2 3 Prepare drawings that show or describe the manner and configuration for the containment work area or regulated work area
 - 4 2 4 Specify where temporary barriers are to be installed Identify what surfaces or items shall be protected during abatement and covered with other temporary barriers, such as polyethylene sheeting, and specify the *minimum requirements* for materials and their installation
 - 4 2 5 Reference applicable regulations for minimum acceptable work methods, and provide specific work methods where necessary
 - 4 2 6 List the sequence in which abatement should proceed, from containment prep, gross removal, cleaning, visual inspections, etc , and identify points where the Consultant will inspect work before the next phase of work can proceed
 - 4 2 7 Specify where the Abatement Contractor may request assistance from the Using Agency such as for the removal of windows, shut-down of HVAC or other utilities Coordinate with the Using Agency to determine how the Abatement Contractor shall submit such requests
 - 4 2 8 List all documents the contractor shall provide to the consultant before the start of work and after the completion of abatement



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5. **ABATEMENT PROJECT OVERSIGHT/MANAGEMENT**

- 5 1 The Consultant shall provide the State with full time oversight and air monitoring of ACM and/or LCM abatement projects in accordance with this contract and other site specific specifications where developed. The Consultant shall be the Using Agency's Representative at the abatement project worksite, and shall have all the necessary authorities and responsibilities to ensure compliance with contract specifications and regulatory requirements. In the event there is a situation that would require work stoppage, the consultant should take action and immediately notify the Using Agency's Representative of the situation. These situations shall include but are not limited to improper abatement methods and unsafe work practices. The Consultant shall allow authorized Using Agency representatives access to the work site, materials, records, or any other relevant data specified herein and, furthermore, the Consultant shall provide proper facilities for such access and inspection.
- 5 2 Consultant personnel who provide abatement project oversight management services shall hold the following accreditations
 - 5 2 1 ACM Abatement Management AHERA Contractor/Supervisor
 - 5 2.2 LCM Abatement Management EPA Inspector
 - 5 2 3 LCM Clearance Testing.
- 5 3 The Consultant or his/her authorized representative shall be on the site **at all times** to coordinate project activities. The State shall have the right to review any and all credentials of individuals proposed as authorized representatives and the right to accept or reject any individual not in compliance with State guidelines.
- 5 4 The Consultant shall monitor for other anticipated contaminants that may affect the work place safety of work site and Using Agency employees as required by the Using Agency.
- 5 5 The Consultant shall document the discussions of project meetings and provide copies of meeting minutes to all attendees.
- 5 6 The Consultant shall be responsible for checking the Abatement Contractor's employee records to ensure all medical records, training and certifications are current and available on-site. The Consultant shall have at the project site a copy of the written safety, respiratory protection, and hazard communications program manuals.
- 5 7 The Consultant shall ensure that all barriers, signs, and appropriate labels are posted as required pursuant to any and all regulations.
- 5 8 The Consultant shall inspect the Abatement Contractor's work area preparation for completeness and to ensure that it complies with industry standards, regulatory requirements, the requirements of applicable contracts, and project specific specifications.
- 5 9 The Consultant shall monitor Contractor performance and work methods to ensure compliance with applicable regulations.
- 5 10 The Consultant shall provide recommendations and assessments of abatement work as needed to assist the Using Agency with the proper execution of the project.
- 5 11 The consultant shall maintain a daily project log with at least hourly entries to include descriptions of the following
 - 5 11 1 Work being performed including area where work is being performed and abatement methods
 - 5 11.2 Personal protective equipment being employed
 - 5 11 3 Containment condition/integrity
 - 5 11 4 Hepa air filtration equipment operation
 - 5 11 5 Problem incidents and their resolution
 - 5 11 6 Results of any other inspections in progress
- 5 12 The Consultant shall prepare a final report including a narrative description of
 - 5 12 1 The scope and progression of abatement (dates of work and ACM and LCM removed)
 - 5 12.2 The abatement work and methods, oversight services provided by the Consultant, schedule and dates of work, and details pertinent to the reconstruction and understanding of the work performed. The Consultant may use existing report formats provided that all needed information is provided.



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- 5 12 3 All Abatement Contractor closeout documents (including waste manifests, supervisor logs, containment logs, sign-in logs, personal air monitoring results, etc)
- 5.12 4 Drawings and/or photos that depict the location of ACMs / LCMs that were abated
- 5 12 5 All monitoring results including locations, and a discussion of results
- 5 12 6 Consultant hourly and daily logs from each day of oversight
- 5 12 7 Copies of certifications for all Consultant personnel who provided oversight services
- 5 13 The Consultant shall perform the following additional inspections, monitoring, and reporting activities
 - 5 13 1 Monitor water filtration devices and ensure five (5) micron final filters are used (Asbestos)
 - 5 13 2 Collect perimeter and work area air samples during abatement and use the results as a quality control measure
 - 5 13 3 The Consultant shall be responsible for any and all site inspections, estimations of quantity of work, or recognition of unusual or special situations which may affect the scheduled completion of the work
 - 5 13 4 Air monitoring shall be performed according to the following requirements
 - Final clearance air monitoring shall be done in all enclosures when required by regulations Analysis shall be by Phase Contrast Microscopy (PCM) unless otherwise specifically stated Air sample results shall be available on the job site within 24 hours or sooner if specified by Using Agency (Asbestos)
 - All final clearance air samples shall be to the AHERA standard of 0 01 f/cc before the enclosure can be removed and the area reoccupied If transmission electron microscopy (TEM) is used for final air clearance, the fiber count shall be less than 70 structures/millimeter squared for all areas that will be reoccupied (Asbestos)
 - All Asbestos Consultant personnel that analyze PCM air samples on a job site shall hold NIOSH 582 certification, participate in the Asbestos Analysts Testing Program certification administered by the American Industrial Hygiene Association (AIHA), and be listed on the AIHA Asbestos Analysts Registry (Asbestos)
 - When friable materials are removed prior to demolition of structures, the fiber count shall be equal to, or less than, 0 01 f/cc before the enclosure can be removed (Asbestos)
 - Clearance sampling for lead shall be by wipe/soil methods as applicable Clearance criteria shall be according to HUD Guidelines 1997 and analyzed by Flame Atomic Absorption Spectrometry
 - Manometer(air differential) readings
 - Indications of airflow into containment
- 5 14 The Consultant shall monitor the dismantling of containment barriers and engineering controls to ensure no visible debris related to the abatement work remains, including non-ACM / LCM debris Prior to asbestos removal the Consultant is responsible to ensure the Abatement Contractor notifies ADEQ, designated county agencies, and the Using Agencies, if requested The notification form shall comply with 40 CFR, Part 61, Subpart M Following completion of the abatement, the consultant shall provide the PM with written confirmation (email/ clearance letter) that the project has passed inspection and air clearance protocols and teardown is complete
- 5 15 The Consultant shall ensure that all visible debris and ACM / LCM waste has been removed Lab reports and recommendations related to the project shall be submitted to the Using Agency prior to final payment

6. USING AGENCY RESPONSIBILITIES.

The Using Agency requesting services under this contract shall provide the Asbestos Consultant specific written information concerning the project The request may be in the form of a Task Assignment The request by the Using Agency may include the description of the site where services are required, site drawings, construction records, purpose of project, other contractors whose work they will be monitoring and coordination of other activities and site use If the request does not provide all necessary information, the Using Agency shall provide the Consultant access to any relevant information that is available



Special Terms and Conditions

State of Arizona
State Procurement Office
100 N 15th Ave , Suite 201
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Description **Statewide Environmental Consulting Services for Asbestos and Lead**

1. DEFINITIONS

ProcureAZ terms ProcureAZ ([https //procure az gov](https://procure.az.gov)) is the State’s online eProcurement system Although the system was configured for the State’s needs, the application is based on a commercial product known as BuySpeed Online, made by Periscope Holdings, Inc As a result, some of the terms used in the BuySpeed Online application may be semantically different to similar terms used by the State The following terms are as they appear in BuySpeed Online (and ProcureAZ), along with their corresponding meanings as they apply to the solicitation

“Actual Cost” means the total value of all items and their extended quantities

“Alternate Id / Alternate ID” is an optional field and means any additional data in order to link a solicitation or project to a related project, activity or program

“Attachments” means the section, as displayed in ProcureAZ, where the solicitation’s electronic documents may be attached Attachments as defined in the Uniform Instructions may include Solicitation Attachments, and/or as defined in the Uniform Terms and Conditions may include Contract Attachments

“Buyer” means procurement officer

“Catalog ID” is an optional data field and means an identification number to signify a group of related contracts

“Contact Instructions” means the contact information for the procurement officer

“Control Code” is an optional field and means an identification characteristic of the contract

“Days ARO” means the number of days ‘After Receipt of Order’ in which the customer will receive the ordered materials and/or services

“Department” means the customer for whom the solicitation or contract was conducted for

“Discount %” is an optional field and means the standard discount applied to all items

“Entered Date” means the date that the contract was awarded, not necessarily the date the contract starts, e g , Master Blanket/Contract Begin Date

“Fiscal Year” means the State Fiscal Year in which the solicitation was initiated In the event of contract(s) resulting from the solicitation, the Fiscal Year shall remain unchanged

“Freight Terms” means how freight will be charged under the contract

“Header Information” means the section of the solicitation or contract, as displayed in ProcureAZ, containing solicitation or contract information other than the line items

“Item information” means the section of the solicitation or contract, as displayed in ProcureAZ, containing the solicitation or contract line items

“Location” means the specific customer, within the department, for whom the solicitation or contract was done

“Master Blanket/Contract Begin Date” means the date that the contract starts

“Master Blanket/Contract End Date” means the date that the contract ends.

“Master Blanket/Contract End Date (Maximum)” means the date that the contract may be extended through if all allowable term extensions are exercised

“Master Blanket/Contract Vendor Distributor List” means the list of companies authorized to distribute the materials and/or services on behalf of the Contractor under the contract



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“Master Blanket Purchase Order” means the contract, indicating that the contract will be in effect over a stated period of time

“Minor Status” is an optional data field and means a type of status indicator of the contract in ProcureAZ

“Organization” means the state agency under whose authority the solicitation or contract was conducted

“Payment Terms” means the period of time that payment is due after receipt of an accurate invoice

“Pcard Enabled” is an optional data field and means that customers are allowed to use their purchasing card (P-Card or Pcard) to order from the contract within the ProcureAZ system

“PO Acknowledgement” means the list the notifications to the Contractor and their acknowledgements of these notices

“PO Type” means the period of time that the contract is in place, either a one-time transaction, Open Market, or for a stated period of time, Blanket

“Print Dest Detail” is an optional data field and means a print format applicable to orders under the contract

“Print Format” means the format of the solicitation or contract print output

“Project No” is an optional field and means an identification characteristic of the contract

“Purchase Order” means contract

“Purchase Order Number” means the contract’s identification number

“Purchaser” means procurement officer

“Receipt Method” means the method by which materials and/or services under the contract are received, either by amount spent, Dollar, or by item units, Quantity.

“Release Number” means the order number of each order under the contract The Master Blanket/Contract will always reflect a zero “0” release number

“Release Type” means the process that orders under the contract are subject to within ProcureAZ, requiring approval on an order-by-order basis, e g , Standard Releases or not requiring approval, e g , Direct Release

“Retainage %” is an optional field and means the amount of the contract’s value that is retained

“Shipping Method” means the method of shipping to be used under the contract

“Shipping Terms” means the point where the Contractor will ship the materials and/or services to, and if accepted, the point when responsibility and title passes from the Contractor to the State

“Short Description” means the contract’ title

“Status” means the availability of the contract within ProcureAZ for ordering, e g , Sent status

“Tax Code”, if applicable, means the amount of taxes, expressed as a percentage, to be added to all items purchased under the contract As items may be subject to differing tax rates, this field may be blank

“Type Code” means the category of customers that may use any resulting contract(s) E g , Single-Agency, Multi-Agency or Statewide

“Vendor” means Contractor



Special Terms and Conditions

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Description **Statewide Environmental Consulting Services for Asbestos and Lead**

2. CONTRACT

2.1 The contract between the State of Arizona and the Contractor shall consist of the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by the Contractor, their responses to any requests for clarifications and/or their best and final offer. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the solicitation as amended shall govern. However, the State reserves the right to clarify any contractual requirement in writing, and such written clarification shall govern in case of conflict with the applicable requirements stated in the solicitation as amended or the Contractor's proposal. In all other matters not affected by the written clarification, if any, the solicitation shall govern.

2.2 The State's primary contact for this solicitation and result contracts shall be

Brian D Ball, Sr Procurement Specialist
State of Arizona, State Procurement Office
100 N 15th Ave, Suite 201
Phoenix, AZ 85007
Phone (602) 542-2090
Fax. (602) 542-5508
Email brian.ball@azdoa.gov

2.3 Contract Document The State may clarify any Contract following award. This clarification shall not substantially alter the contents of the Contract, but shall only edit and reformat the Contract in a manner that will facilitate ease of use, contract administration, and concurrence of the Parties.

2.4 Contract Type Hourly Rate, Firm Fixed Price. Individual Task Assignments shall be awarded on a specific project basis in accordance with the terms of this Contract.

2.5 Term of Contract The term of the contract shall commence upon award and shall remain in effect for a period of one year, unless terminated, canceled or extended as otherwise provided herein.

2.6 Contract Extension The initial contract term is for a one (1) year period subject to additional successive periods of a maximum twelve months per extension with a maximum aggregate including all extensions not to exceed five (5) years. A factor in contract extensions shall be the extent that the State has all current usage information and insurance documents on file.

2.7 Estimated Usage The Contract shall be on an as needed, if needed basis. The State makes no guarantee as to the amount of usage that may occur under a resultant contract.

2.8 Non-Exclusive Contract This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

2.9 Eligible Agencies This contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes 41-2632.

2.10 Cancellation The State reserves the right to cancel the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract including but not limited to

2.10.1 Providing personnel that do not meet the requirements of the contract or attempting to impose on the State, personnel of unacceptable quality,

2.10.2 Failure to perform adequately the services required in the contract or

2.10.3 Any action or inaction that is in violation of EPA, OSHA or any applicable regulation



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3. ADMINISTRATIVE FEE / USAGE.

- 3 1 Contractor shall assess an administrative fee in the amount of one (1%) against all contract sales to members of the State Purchasing Cooperative – including cities, counties, school districts and other qualified members. The administrative fee is calculated against all sales under this contract minus any taxes or regulatory fees, minus any returns or credits, and minus any shipping charges not already included in the unit prices. An updated list of State Purchasing Cooperative members may be found at http://spo.az.gov/Cooperative_Procurement/SPC/default.asp. At its option, the State may expand the applicability of this fee. The State shall provide thirty (30) written notice prior to exercising or changing this option.
- 3 2 Contractors shall submit a Quarterly Usage Report documenting all contract sales. For more information on the Quarterly Usage Report or the Administrative Fee, its calculation, submission or use, and the proper Usage Report Forms see the State Procurement Office's web site at http://spo.az.gov/Contractor_Resources/Admin_Fee/default.asp. Any alternate Quarterly Usage Report format shall be approved by the Procurement Officer. Any usage report that is submitted to the State for the purpose of satisfying this requirement shall be deemed public record and all information contained in such report shall not be considered confidential, including any supplemental information contained in the submitted report beyond that which is requested in the Sample Forms located at the State Procurement Office Web Site.
- 3 3 The Administrative Fee shall be submitted, along with a Quarterly Usage Report to the State Procurement Office within thirty (30) days following the end of each calendar quarter. Administrative Fees shall be submitted to the following address:
- Arizona Department of Administration
State Procurement Office
Attention 'Statewide Contract Administrative Fee'
100 N 15th Avenue, Suite 201
Phoenix, AZ 85007
- 3 4 The submission schedule for Administrative Fees and Usage reports shall be as follows:
- July through September (FY Q1) – Due October 31
October through December (FY Q2) – Due January 31
January through March (FY Q3) – Due by April 30
April through June (FY Q4) – Due by July 31
- 3 5 The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.
- 3 6 Contractor's failure to remit administrative fees in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

4. KEY PERSONNEL

- 4 1 It is essential that the Contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor agrees and understands that the State's agreement to the Contract is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified and/or described in the Contractor's proposal. Therefore, the Contractor agrees that no substitution of such specified individuals and/or personnel qualifications shall be made without the prior written approval of the State. The State shall not unreasonably exercise the rights reserved under this paragraph.
- 4 2 During the course of the contract, the State reserves the right to require the contractor to reassign or otherwise remove from the project any contractor employees found unacceptable by the State.
- 4 3 The Contractor further agrees that any substitution made pursuant to this paragraph shall be equal or better than originally proposed and that the State's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State agrees that an approval of a substitution shall not be unreasonably withheld.



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4 4 The Contractor shall bear all transitional expenses incurred for any costs associated with removing or replacing Key Personnel who are performing work under the Contract. This shall include becoming familiar with the specific characteristics and special requirements of the project area. If the Contractor replaces Key Personnel, it shall not affect their commitment to meet all schedules and deliverables. The Contractor agrees to reveal its staffing levels by function, including resumes, upon request by the State at any time during the performance of this Contract.

4 5 Out-Of-State Personnel. Written approval of the Using Agency shall be obtained by the Contractor prior to importing the services of out-of-State personnel in conjunction with a Task Assignment Statement/Scope of Work (TASOW) for any billable expense other than the hourly rate.

5. REMOVAL OF PERSONNEL

5 1 The State reserves the right to require the Contractor to reassign or otherwise remove any Contractor or Subcontractor personnel from providing Task Assignment services. The State shall not unreasonably exercise the rights reserved under this paragraph.

5 2 The State may require that the Contractor remove from the Contract employees who endanger persons or property or whose continued employment under this Contract is inconsistent with the interests of the State.

5 3 The State shall not be charged for Contractor time needed to bring new Contractor or Subcontractor personnel to the level of knowledge of previous Contractor or Subcontractor personnel. This shall include becoming familiar with the specific characteristics and special requirements of a Task Assignment.

6. ARIZONA CONTACT The Contractor shall maintain and utilize an Arizona office contact, which facilitates responding to and administering the Contract and any resulting Task Assignment(s). The Contractor shall maintain and provide to the ADOA/Enterprise Procurement Division and Using Agency Project Manager the current names, phone numbers, facsimile numbers, etc. of the critical points of contact for contract administration purposes.

7. SUBCONTRACTORS

7 1 The Contractor shall not subcontract for the performance of any portion of this solicitation's Scope of Work without **prior written approval** of the Using Agency.

7 2 Subcontracts issued by the Contractor shall incorporate by reference the Terms and Conditions of this Contract and the requirements of the Task Assignment.

7 3 Examples of subcontracted services and equipment are laboratory services, equipment rental, transportation and disposal, utility locators, trade professions or other services or equipment as authorized in the Task Assignment. Subcontracted services do not include such things as key personnel, utilities, or supplies.

8. TEAMING ARRANGEMENTS. Teaming arrangements shall not be allowed. The performance of any portion of the contract's Scope of Work by a company other than the Contractor shall be secured through subcontracting.

9. LICENSES. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the contractor and make them available as required by this contract.

10. INVOICING AND PAYMENT

10 1 Contractor shall submit monthly invoices during the performance of the Task Assignment to the appropriate Using Agency personnel as directed by the Task Assignment. Invoices shall be received by the Using Agency no later than the current month for the preceding month's contract performance. In no instance shall the amount(s) being invoiced differ from the price established in the Task Assignment and any subsequent approved written Amendments. Failure to comply with these requirements may result in a partial or total denial of payment.

10 2 Payment shall be for the amount of work completed and accepted for the preceding month unless otherwise directed by the Task Assignment. The Using Agency may retain up to 10% of the estimated amount of the project until final acceptance of the Task Assignment.



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- 10 3 The Using Agency may have specific requirements concerning the invoice The specifics may cover any or all of the following
 - Support of all hours worked by detailed time sheet which outlines the hours worked each day, all charges billed shall be relative to the technical task If the project entails work by the Contractor at more than one (1) area, the Using Agency may additionally direct the Contractor to report the number of hours worked by area
 - Receipts for all lodging and subsistence with services provided where the project area is thirty-five (35) or more miles from the location of the Contractor's primary place of business The Contractor shall provide motel and meal receipts with the invoice Mileage will only be allowed for the thirty-five (35) miles or more identified above
 - All work associated and approved through a Task Assignment Amendment shall be so identified on all invoices
 - The Contractor shall certify all invoices have been examined, and to the best of the Contractor's knowledge and belief, the reported expenditures are valid, based upon the Contractor's official and auditable accounting records (books of account) and are consistent with the terms of the contract
- 10 4 Payment(s) shall not be construed to be an acceptance of defective work or improper material
- 10 5 The Using Agency shall not be obligated to make final payment until the Contractor has delivered to the Using Agency a certificate and release satisfying that the project has been completed and that the work is not subject to any unsatisfied lien or claim as a result of the Contractor, that all rights of lien against the State's property have been satisfied and that the Contractor has paid, or shall pay in full, all outstanding obligations against the work upon receipt of final payment

11. PRICING.

- 11 1 Key Personnel Hourly rates for Key Personnel Classifications shall be on an all-inclusive basis and shall contain the labor rate, labor benefits, payroll burden, insurance, workman's compensation, fee, all taxes, profit, overhead, general and administrative expenses, fees and all other related charges Examples of non-billable administrative costs are preparation of Task Assignment Offers (TAO) or changes, accounting, invoicing, insurance, payroll preparation, office materials, supplies, telephone calls (local and/or long-distance, cell), reusable tools, reusable protective clothing, consumable supplies, petty cash and other costs of doing business Hourly rates shall be computed in terms of standard rates, overtime, and emergency rates which shall be defined as follows
 - 11 1 1 **Standard Hourly Rates** shall mean the hourly rate charged for a forty hour calendar week with shifts to begin at a scheduled time approved by the using agency
 - 11 1 2 **Overtime Hourly Rates** shall mean man-hours that have been pre-approved by the using Agency, which are worked in excess of the specified forty hour work week Overtime rates shall not exceed "time-and-one-half" of the Standard Hourly Rates
 - 11 1 3 **Emergency Hourly Rates** shall mean the rate charged for man hours that have been required by request of the using agency with less than a 24 hour notice Emergency Hourly Rates shall not exceed "double-time" of the Standard Hourly Rates
- 11 2 Trade Equipment Trade equipment items are considered to be indirect costs and are not billable Examples are
 - 11 2 1 reusable hand and small tools (e g , screwdrivers, hammers, garden hoses)
 - 11 2 2 reusable protective clothing, hard hats, safety boots, safety glasses cameras, digital cameras,
 - 11 2 3 computer equipment and software including all costs relating to use of such equipment,
 - 11 2 4 communication equipment (i e , telephone, cell phone, fax),
 - 11 2 5 consumable supplies/equipment,
 - 11 2 6 first aid kits, eyewashes, decontamination equipment, respirators, rope, fire extinguishers, etc or as determined by the Using Agency
- 11 3 Sampling and Analytical Costs
 - 11 3 1 All known costs associated with sampling and analysis shall be included in the Task Assignment Offer to be submitted to the Using Agency
 - 11 3 2 Transportation costs associated with land or air transportation of samples by a third party following initial relinquishing of chain of custody shall be included in the Task Assignment Offer to be submitted to the Using Agency



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11 3 3 Miscellaneous Supplies for decontamination of sampling equipment or collection devices and supplies such as tape, labels, rubber gloves, ice, etc shall be included Disposal of samples following analysis is also included unless specific reasons are present that require and justify these additional costs

11 3.4 Travel When requested, in writing, from the Using Agency to perform work that requires overnight accommodations, the Using Agency shall reimburse the contractor in accordance with the current rates specified in the Rules and Regulations applicable to State employee's travel The contractor shall itemize all per diem and lodging charges State rates may be located at www.gao.az.gov.

12. PRICE INCREASE (AFTER ONE YEAR)

12 1 The State Procurement Office may review a fully documented request for a price increase only after the contract has been in effect for one (1) year

12.2 A price increase shall only be considered at the time of a contract extension The request shall be submitted from 30 to 60 days prior to the anniversary or the contract renewal date and shall be a factor in the extension review process The request shall be for factors the Contractor was unaware at the time of offer submission Failure to submit the request within the stated timeframe or failure to supply adequate information with the request may result in the state not considering the request

12 3 The State, at its sole option, shall determine whether the requested price adjustment or an alternate option is in the best interest of the State Approval shall be in the form of a contract amendment, and shall become effective on the date specified in the amendment

13. PRICE REDUCTION. A price reduction adjustment may be offered at any time during the term of the Contract and shall become effective upon notice

14. APPROPRIATION OF FUNDS. Every payment obligation of the Agency under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the Agency at the end of the period for which funds are available No liability shall accrue to the Agency or the State of Arizona in the event this provision is exercised, and neither the Agency nor the State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph

15. PANDEMIC CONTRACTUAL PERFORMANCE.

15 1 The State shall require a written plan that illustrates how the Contractor shall perform up to contractual standards in the event of a pandemic The State may require a copy of the plan at anytime prior or post award of a contract At a minimum, the pandemic performance plan shall include (i) Key succession and performance planning if there is a sudden significant decrease in Contractor's workforce, (ii) Alternative methods to ensure there are products in the supply chain, and (iii) An up to date list of company contacts and organizational chart

15 2 In the event of a pandemic, as declared by the Governor of Arizona, U S Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights (i) After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the Contractor cannot perform to the standards agreed upon in the initial terms, (ii) The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code, and (iii) Once the pandemic is officially declared over and/or the Contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided contract(s)

15 3 The State, at any time, may request to see a copy of the written plan from the Contractor The contractor shall produce the written plan within 72 hours of the request

16. ELECTRONIC OR INFORMATION TECHNOLOGY Products, services and maintenance shall comply with A R S § 41-3531, which requires conformance with the requirements of Section 508 of the Rehabilitation Act of 1973 Failure to comply shall be considered a breach of the Contract

17. FINANCIAL SOUNDNESS.

17 1 The Agency shall be notified in writing of any substantial change in the Offeror's financial condition during the term of the Contract Failure to notify the Agency of such a substantial change in financial condition shall be sufficient grounds for terminating the Contract



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17.2 The State may request the Contractor and any of the Contractor's Subcontractors to provide a certified Statement of Financial Capability or the company's most current financial statement which has been audited by their outside auditing firm

18. PROTECTION OF FACILITIES AND GROUNDS.

18.1 The contractor shall provide the services contained herein in such a manner that does not result in damage to State and eligible using agency facilities, grounds, landscaping, utilities, or structures. In the event that damage does occur during the performance of this contract, the contractor shall repair or replace the damage at no cost to the State or eligible using agency as specified

18.2 Should the contractor fail or refuse to make proper repairs or replacements, the contractor shall be liable for the cost thereof which may be deducted from unpaid invoices or by any other means provided by law. Any and all equipment (containers) supplied by the contractor(s) for use by an eligible using agency shall remain the property of the contractor

19. BILLING All billing notices or invoices shall be sent to the eligible using agency whose address appears on the contract release order/purchase order as the 'bill to address' and should contain, at a minimum, the following information

- Name and address of the contractor,
- Both the contract number and contract release/purchase order number,
- The contractor's federal tax identification number,
- The contractor's remittance address,
- A description of the goods or services provided,
- Quantity and delivery/service timeframe,
- Itemized (if applicable) and total invoice pricing

20. TASK ASSIGNMENTS.

20.1 The Using Agency shall submit an initial Task Assignment Scope of Work in accordance to the requirements of the Scope of Work of this Contract.

20.2 The Contractor shall not begin performance of any billable work, pursuant to this Contract, without first receiving a signed Task Assignment from the Using Agency

20.3 The Contractor shall complete all services specified in the Task Assignment and any subsequent amendments. However, the Contractor shall agree and understand that completion of such services does not in itself constitute project completion. The Using Agency shall determine when each project is complete

20.4 Using Agency may negotiate a Task Assignment with a qualified Contractor for the required services at compensation determined in writing to be fair and reasonable to the State. Task Assignment negotiations shall be directed toward

- 20.4.1 Providing a clear understanding of the scope of the project and the essential requirements involved in providing the required services,
- 20.4.2 Determining that the Contractor will make available the necessary personnel and facilities to perform the services within the required time, and
- 20.4.3 Agreeing upon compensation that is fair and reasonable, taking into account the estimated value, scope, complexity and nature of the required services

20.5 Changes in Task Assignments The State at any time and by a Task Assignment Amendment may make changes to the Task Assignment. The Contractor shall provide the State in writing, detailed cost supportive data if a change in scope requires a change in the project. It is understood and agreed that refinement and detailing may be accomplished from time to time with respect to the Task Assignment Scope of Work. No adjustment in the project pricing or the scheduled completion date shall be made unless such refinement or detailing results in changes in the scope of the project, as determined by the State. The State shall review the Contractor's analysis and cost data and advise the Contractor of their findings. The State and the Contractor shall reach agreement on the nature of the subject change and upon the State's direction eliminate the circumstances of the change or negotiate a mutually agreed cost change to be made to the project price. No unauthorized expenditures can be made against the Task Assignment without prior written approval by the Using Agency via the issuance of a Task Assignment Amendment



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- 20 6 Contractor's Task Assignment Offer The Contractor shall submit a Task Assignment Offer (TAO) which shall include
- 20 6 1 Proposed method of approach with any suggested changes to the initial TASOW and recommendations for any approved innovative technologies when applicable The Contractor shall not be paid for the development of the TAO
 - 20 6 2 A list of all approved key personnel to be assigned to complete the work The Contractor shall provide the following information for each key personnel and subcontractors, respectively
 - 20 6 3 Specific professional position, level assigned, and health and safety responsibilities for the project (i e , John Smith, Project Manager, level 4, safety oversight
 - 20 6 4 A list of all approved subcontractors to be utilized Contractor shall submit adequate documentation supporting the performance ability of proposed subcontractors
 - 20 6 5 Number of hours for each key person, subcontractor(s), consultant(s), etc The written TAO shall also include a detailed, itemized breakdown of all labor classifications, equipment and supplies for ALL subcontractors which the Contractor proposes to utilize, as well as the not to exceed COSTS for such,
 - 20 6 6 Potential conflicts of interest in accordance with (para 38 above)
 - 20 6 7 Once identified in the TAO, Key Personnel or Subcontractors shall not be removed or replaced without notification and approval of the Using Agency Project Manager or Project Coordinator If the Contractor replaces Key Personnel or a Subcontractor, it shall not affect their commitment to meet all schedules and deliverables
 - 20 6 8 In addition to the items listed above, the Using Agency may require the following information when appropriate for the specific demands of the project
 - 20 6 8 1 Related or similar project references that demonstrate experience for the work required with points of contact and current phone numbers,
 - 20 6 8 2 Brief resume to support minimum requirements/educational background required for that specific professional position and level,
 - 20 6 8 3 The Contractor's safety plan for the project The Contractor shall agree and understand that, in addition to the conditions specified in the written TAO, reasonable professional judgment shall, at all times, be exercised as criteria for cessation of services for safety reasons,
 - 20 6 8 4 A complete schedule of activities to meet compliance with Using Agency's schedule for completion,
 - 20 6 8.5 Local conditions, assumptions and/or limitations on the part of the Contractor which may affect the accuracy of the TASOW,
 - 20 6 8 6 Anything else that applies to this specific site (i e , laboratory tests, location of disposal site, etc),
 - 20 7 The Contractor shall submit the written Task Assignment Offer to the Using Agency no later than the date specified by the Using Agency and in accordance with all instructions provided by the Using Agency
 - 20 8 The Using Agency Project Manager or Project Coordinator shall have the right to review a copy of the proposed subcontractor's and/or consultant's work schedule to ensure compliance with all terms and conditions of the original contract
 - 20 9 If accepted by the Using Agency, the Task Assignment Offer becomes a firm, fixed offer and the bottom-line dollar amount for all labor, equipment, supplies, subcontractor work, mark-up, etc , shall become a not-to-exceed (NTE) ceiling amount No component of the Task Assignment Offer (labor classification, number of hours, equipment, etc) or the NTE ceiling can be increased except through the Task Assignment Amendment process, as described in Paragraph 54 (below)



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21. INSURANCE -ENVIRONMENTAL SERVICES / CONSULTING / TESTING SERVICES

21.1 INDEMNIFICATION:

Contractor agrees to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing permits for any work included in the project, and their respective directors, officers, officials, agents and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, costs, losses, or expenses, (including reasonable attorney's fees), (hereinafter collectively referred to as "Claims") arising out of actual or alleged bodily injury or personal injury of any person (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 Contractor's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of 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 Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, 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.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

21.2 INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain, until all of their obligations, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase such additional insurance as may be determined necessary.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE - Contractor shall provide coverage with limits of liability not less than those stated below:

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability and XCU coverage

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

a. The policy shall be endorsed to include the following additional insured language: *“The State of Arizona, its departments, agencies, boards, commissions, universities and its 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 in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its 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.



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- Combined Single Limit (CSL) \$1,000,000
- a The policy shall be endorsed to include the following additional insured language *"The State of Arizona, its departments, agencies, boards, commissions, universities and its 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 waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor
 - c Policy shall contain a severability of interests provision

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its 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

4. Professional Environmental Liability (Errors & Omissions)

Each Occurrence	\$1,000,000
Annual Aggregate	\$2,000,000

- a Contractor warrants that if policy is written on a claims made basis, any retroactive date under the policy precedes the effective date of this Contract, and that continuous coverage will be maintained or extended discovery period will be exercised for a period of two (2) years beginning from the time work under this Contract is completed
- b The professional liability insurance **must include coverage** for claims of bodily injury or property damage arising out of **pollution for environmental work, asbestos, laboratory analysis and/or the operations of a treatment plant**, if required by the Scope of Services
- c The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract

B ADDITIONAL INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed 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 carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by Arizona Revised Statutes Section 41-621 (C)
- 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 State of Arizona. Such notice shall be sent directly to **the Department** and shall be sent by certified mail, return receipt requested

D ACCEPTABILITY OF INSURERS: Contractors insurance shall be placed with companies duly 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 State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency



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E **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona 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 a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona 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 State of Arizona project/contract number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

F **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above. Contractor may at its discretion furnish as partial coverage for a subcontractor, certificates with lesser limits of liability than the minimum amounts identified above, provided that Contractor also includes said subcontractor as insured under Contractor's insurance for all amounts exceeding such lesser limits of liability.

G **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.

H **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. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

22. CONTRABAND.

22.1 Any person who takes into or out of, or attempts to take into or out of a correctional facility or the grounds belonging to adjacent to a correctional facility, any item not specifically authorized by the correctional facility shall be prosecuted under the provisions of the Arizona Revised Statutes. All persons, including employees and visitors, entering upon these confines are subject to routine searches of their person, vehicles, property of packages.

22.2 **DEFINITION - A R S § 13-2501** Contraband means any dangerous drug, narcotic drug, intoxication liquor of any kind, deadly weapon, dangerous instrument, explosive or any other article whose use or possession would endanger the safety, security, or preservation of order in a correctional institution or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e. marijuana, non-prescription medication, etc.)

22.3 **PROMOTING PRISON CONTRABAND - A R S § 13-2505**

1 A person, not otherwise authorized by law, commits promoting prison contraband

A By knowingly taking contraband into a correctional facility or the grounds of such a facility, or

B By knowingly conveying contraband to any person confined in a correctional facility, or

C By knowingly making, obtaining or possessing contraband while being confined in a correctional facility

2 Promoting prison contraband is a Class 5 felony

23. **LOBBYING.** The Contractor shall not engage in lobbying activities, as defined in 40 CFR part 34 and ARS §41-1231, et seq, using monies awarded under this Contract. Upon award of this Contract, the Contractor shall disclose all lobbying activities to the State to the extent they are an actual or potential conflict of interest or where such activities would create an appearance of impropriety. The Contractor shall implement and maintain adequate controls to assure that monies awarded under this Contract shall not be used for lobbying. All proposed Subcontractors shall be subject to the same lobbying provisions stated above. The Contractor shall include anti-lobbying provisions in all Contracts with Subcontractors.



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1. DEFINITION OF TERMS

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows

- 1 1 "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer
- 1 2 "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work, the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments
- 1 3 "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract
- 1 4 "Contractor" means any person who has a Contract with the State
- 1 5 "Days" means calendar days unless otherwise specified
- 1 6 "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation
- 1 7 "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received
- 1 8 "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space
- 1 9 "Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract
- 1 10 "Services" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements
- 1 11 "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract
- 1 12 "State" means the State of Arizona and Department or Agency of the State that executes the Contract
- 1 13 "State Fiscal Year" means the period beginning with July 1 and ending June 30

2. CONTRACT INTERPRETATION

- 2 1 Arizona Law The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A R S) Title 41, Chapter 23, and it's implementing rules, Arizona Administrative Code (A A C) Title 2, Chapter 7
- 2 2 Implied Contract Terms Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2 3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below
 - 2.3 1 Special Terms and Conditions,
 - 2 3 2 Uniform Terms and Conditions,
 - 2 3.3 Statement or Scope of Work,
 - 2 3 4 Specifications,
 - 2 3 5 Attachments,
 - 2 3 6 Exhibits,
 - 2 3 7 Documents referenced or included in the Solicitation.



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- 2 4 Relationship of Parties The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2 5 Severability The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2 6 No Parole Evidence This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2 7 No Waiver Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. CONTRACT ADMINISTRATION AND OPERATION

- 3 1 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3 2 Non-Discrimination The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3 3 Audit Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3 4 Facilities Inspection and Materials Testing The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3 5 Notices Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3 6 Advertising, Publishing and Promotion of Contract The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3 7 Property of the State Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3 8 Ownership of Intellectual Property Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.



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- 3 9 Federal Immigration and Nationality Act The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to, suspension of work, termination of the contract for default and suspension and/or debarment of the contractor
- 3 10 E-Verify Requirements In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A
- 3 11 Scrutinized Businesses In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran
- 3 12 Offshore Performance of Work Prohibited
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract This provision applies to work performed by subcontractors at all tiers

4. COSTS AND PAYMENTS

- 4 1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days
- 4 2 Delivery Unless stated otherwise in the Contract, all prices shall be F O B Destination and shall include all freight delivery and unloading at the destination
- 4 3 Applicable Taxes
 - 4 3 1. Payment of Taxes The Contractor shall be responsible for paying all applicable taxes
 - 4 3 2 State and Local Transaction Privilege Taxes The State of Arizona is subject to all applicable state and local transaction privilege taxes Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes
 - 4 3 3 Tax Indemnification Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation
 - 4 3 4 IRS W9 Form In order to receive payment the Contractor shall have a current I R S W9 Form on file with the State of Arizona, unless not required by law
- 4 4 Availability of Funds for the Next State fiscal year Funds may not presently be available for performance under this Contract beyond the current state fiscal year No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract
- 4 5 Availability of Funds for the current State fiscal year Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions
 - 4 5 1 Accept a decrease in price offered by the contractor,
 - 4 5 2. Cancel the Contract, or
 - 4 5 3 Cancel the contract and re-solicit the requirements



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5. CONTRACT CHANGES

- 5 1 Amendments This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5 2 Subcontracts The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5 3 Assignment and Delegation The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. RISK AND LIABILITY

- 6 1 Risk of Loss The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6 2 Indemnification
 - 6 2 1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
 - 6 2 2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers "
- 6 3 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.
- 6 4 Force Majeure
 - 6 4 1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts; injunctions-intervention-acts, or failures or refusals to act by government authority, and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
 - 6 4 2 Force Majeure shall not include the following occurrences
 - 6 4 2 1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
 - 6 4 2 2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition, or



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- 6 4 2 3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits
- 6 4 3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 6 4 4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- 6 5 Third Party Antitrust Violations The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. WARRANTIES

- 7 1. Liens The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7 2. Quality Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be
 - 7 2 1 Of a quality to pass without objection in the trade under the Contract description,
 - 7 2 2 Fit for the intended purposes for which the materials are used,
 - 7 2 3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
 - 7 2 4 Adequately contained, packaged and marked as the Contract may require, and
 - 7 2 5 Conform to the written promises or affirmations of fact made by the Contractor.
- 7 3. Fitness The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7 4. Inspection/Testing The warranties set forth in subparagraphs 7 1 through 7 3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7 5. Compliance With Applicable Laws The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7 6. Survival of Rights and Obligations after Contract Expiration or Termination
 - 7 6 1. Contractor's Representations and Warranties All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A R S § 12-510, except as provided in A R S § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A R S , Title 12, Chapter 5.
 - 7 6 2. Purchase Orders The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.



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8. STATE'S CONTRACTUAL REMEDIES

- 8 1 Right to Assurance If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract
- 8 2 Stop Work Order.
 - 8 2 1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor The order shall be specifically identified as a stop work order issued under this clause Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage
 - 8 2 2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly
- 8 3 Non-exclusive Remedies The rights and the remedies of the State under this Contract are not exclusive
- 8 4 Nonconforming Tender Materials or services supplied under this Contract shall fully comply with the Contract The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it
- 8 5 Right of Offset The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions

9. CONTRACT TERMINATION

- 9 1 Cancellation for Conflict of Interest Pursuant to A R S § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A R S § 38-511
- 9 2 Gratuities The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor
- 9 3 Suspension or Debarment The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred If the contractor becomes suspended or debarred, the contractor shall immediately notify the State
- 9 4 Termination for Convenience The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination



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The cost principles and procedures provided in A A C R2-7-701 shall apply

9 5 Termination for Default

9 5 1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor

9 5 2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand

9 5 3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor

9 6 Continuation of Performance Through Termination The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice

10 **CONTRACT CLAIMS**

All contract claims or controversies under this Contract shall be resolved according to A R S Title 41, Chapter 23, Article 9, and rules adopted there under

11 **ARBITRATION**

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A R S § 12-1518, except as may be required by other applicable statutes (Title 41)

12 **COMMENTS WELCOME**

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have Please submit your comments to State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007

EXHIBIT B

Western Technologies, Inc. – Pricing Schedules



Attachment A

State of Arizona
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Description **Statewide Environmental Consulting Services for Asbestos and Lead**

PRICING SCHEDULES

Price Schedule Statewide Environmental Consulting Services for Asbestos and Lead is attached as a separate Excel Workbook in the ProcureAZ Attachments Tab of this solicitation and contains the following price schedule worksheets:

- **A1 – Asbestos Consultant Labor Price Schedule**
- **A2 – Lead Consultant Labor Price Schedule**
- **A3 – Asbestos Consultant Services Price Schedule**
- **A4 – Lead Consultant Services Price Schedule**

Consultant Labor Pricing - Pricing for labor shall be submitted using worksheets A1 & A2 according to the instructions below and according to instructions contained in the narrative line items in ProcureAZ

- Provide the hourly rate for each personnel classification level. Each classification level that states at least one employee is required shall have a standard hourly rate, overtime hourly rate and emergency hourly rate. The proposal shall be considered non-responsive if an hourly rate is not provided for all required staff positions.
- If submitting a proposal for Asbestos Consulting or Lead Consulting only, Offeror shall indicate no bid on each ProcureAZ line item that is not applicable to your proposal.
- **Standard Hourly Rates** shall mean the hourly rate charged for a forty hour calendar week with shifts to begin at a scheduled time approved by the using agency.
- **Overtime Hourly Rates** shall mean man-hours that have been pre-approved by the using Agency, which are worked in excess of the specified forty hour work week. Overtime rates shall not exceed “time-and-one-half” of the Standard Hourly Rates.
- **Emergency Hourly Rates** shall mean the rate charged for man hours that have been required by request of the using agency with less than a 24 hour notice. Emergency Hourly Rates shall not exceed “double-time” of the Standard Hourly Rates.
- Hourly Rates for Key Personnel Classifications shall be on an all-inclusive basis and shall contain the labor rate, labor benefits, payroll burden, insurance, workman's compensation, fee, all taxes, profit, overhead, general and administrative expenses, fees and all other related charges.
- Administrative expenses shall include billing preparation (including backup documentation), proposal preparation and all other related administration activities.
- Travel and per diem shall not be included in the proposed Key Personnel hourly rates.

Consultant Services Pricing shall be submitted using worksheets A3 and A4 according to the instructions below and instructions contained in the narrative line items in ProcureAZ

- Provide the pricing for each analysis of laboratory services performed in house and by any subcontractor that are listed in the Attachment.
- Provide the pricing for each laboratory service listed as a line item in ProcureAZ.
- Consultant Services pricing shall be provided on an all inclusive basis and shall contain all fees, transportation costs, administrative costs and all other related cost factors such as postage, delivery, and courier.
- **Rush** fees shall be those fees for lab services that results are required in 24 hours or less.
- Requested pricing for reports shall be inclusive of the reports and any administrative costs associated with the development of the reports but shall not be inclusive of lab fees.

**PRICE SCHEDULE A1
ASBESTOS CONSULTING LABOR RATES
SOLICITATION ADSP012-00001567**

**Direct Experience shall mean experience specific to the Scope of Work of this solicitation*

POSITION	DESCRIPTION	PRICE PER HOUR	
		Standard Rate	Premium Rate
Support Level I	Support Level I - Clerical, word processing, filing, copying, general administration No direct experience required Minimum 1 employee required	Standard Rate	\$ 42.00
		Premium Rate	\$ 45.00
Support Level II	Support Level II - Drafting, project manager's assistant, graphics No direct experience required Minimum 1 employee required	Standard Rate	\$ 43.00
		Premium Rate	\$ 46.00
Support Level III	Support Level III - Drafting supervisor, senior word processor, supervisor No direct experience required Minimum 1 employee required	Standard Rate	\$ 45.00
		Premium Rate	\$ 48.00
Field Level I	Field Level I - Air monitoring, project assistant, site technician closely supervised 6+ months of direct experience required Minimum 1 employee required	Standard Rate	\$ 50.00
		Premium Rate	\$ 53.00
Field Level II	Field Level II - AHERA Building Inspector/Management Planner: independent collection and analysis of data, report writing, 1+ years of direct experience; Minimum 1 employee required	Standard Rate	\$ 52.00
		Premium Rate	\$ 55.00
Field Level III	Field Level III - AHERA Contractor/Supervisor. independent site management, air bulk sample data analysis, report preparation, 2+ years of direct experience; Minimum 2 employees required	Standard Rate	\$ 55.00
		Premium Rate	\$ 58.00
Field Level IV	Field Level IV - Project Designer: planning and design of asbestos abatement projects and field activities, 2+ years direct experience AHERA Project Designer training required; Minimum 1 employee required	Standard Rate	\$ 60.00
		Premium Rate	\$ 63.00
Professional Level I	Professional Level I - Project Manager: supervision of abatement projects, oversees field services; 2+ years of direct experience, AHERA Insp/MP/Cont/Super required, Minimum 1 employee required	Standard Rate	\$ 65.00
		Premium Rate	\$ 70.00
Professional Level II	Professional Level II - Program Manager/IH supervision of abatement projects, oversees field services, 2+ years of direct experience, AHERA Insp/MP/Cont/Super/Proj Design required; No employee requirements	Standard Rate	\$ 75.00
		Premium Rate	\$ 80.00
Professional Level III	Professional Level III - Pncipal/PE/CIH: 5+ years of direct experience, AHERA Contractor Supervisor Training Required; Minimum 1 employee required	Standard Rate	\$ 115.00
		Premium Rate	\$ 125.00

**PRICE SCHEDULE A2
LEAD CONSULTING LABOR RATES
SOLICITATION ADSP012-00001567**

**Direct Experience shall mean experience specific to the Scope of Work of this solicitation*

POSITION	DESCRIPTION	PRICE PER HOUR	
		Standard Rate	Premium Rate
Support Level I	Clerical, word processing, filing, copying, general administration, No direct experience required, Minimum 1 employee required	Standard Rate	\$ 42.00
		Premium Rate	\$ 45.00
Support Level II	Drafting, project manager's assistant, graphics, No direct experience required, Minimum 1 employee required	Standard Rate	\$ 43.00
		Premium Rate	\$ 46.00
Support Level III	Drafting supervisor, senior word processor, supervisor, No direct experience required, Minimum 1 employee required	Standard Rate	\$ 45.00
		Premium Rate	\$ 48.00
Field Level I	Project assistant, site technician closely supervised 3+ months of direct experience Minimum 1 employee required	Standard Rate	\$ 50.00
		Premium Rate	\$ 53.00
Field Level II	Inspector Inspections, post-abatement clearance activities, 6+ months direct experience, EPA Lead Inspector training required Minimum 1 employee required	Standard Rate	\$ 52.00
		Premium Rate	\$ 55.00
Field Level III	Risk Assessor Inspections, post abatement clearance, lead hazard screening, risk assessments, 6+ months direct experience; EPA Lead Risk Assessor training required Minimum 1 employee required	Standard Rate	\$ 55.00
		Premium Rate	\$ 58.00
Field Level IV	Supervisor Abatement project oversight, occupant protection plans, abatement reports, 6+ months direct experience, EPA Lead Supervisor training required Minimum 1 employee required	Standard Rate	\$ 60.00
		Premium Rate	\$ 63.00
Field Level V	Project Designer Occupant protection plans, abatement reports 6+ mos of direct experience, EPA Lead Project Designer training required Minimum 1 employee required	Standard Rate	\$ 65.00
		Premium Rate	\$ 70.00
Professional Level I	Project Manager Supervision of abatement projects, oversees field services, 2+ years direct experience, AHERA Insp/MP/Cont/Super required, Minimum 1 employee required	Standard Rate	\$ 65.00
		Premium Rate	\$ 70.00
Professional Level II	Project Manager/IH Supervision of abatement projects, oversees field services, 2+ years direct experience, AHERA Insp/MP/Cont/Super/Proj Design required, No staffing requirement for this position	Standard Rate	\$ 75.00
		Premium Rate	\$ 80.00
Professional Level III	Principal/PE/CIH 5+ years direct experience Minimum 1 employee required	Standard Rate	\$ 115.00
		Premium Rate	\$ 125.00

PRICE SCHEDULE A3
ASBESTOS CONSULTING SERVICES
SOLICITATION ADSP012-00001567

DESCRIPTION	PRICE		
		Non Rush	Rush
Polarized Light Microscopy (PLM) Bulk Sample (Includes all cost such as postage, delivery, and courier)	EA	\$ 10.00	\$ 16.00
Polarized Light Microscopy (PLM) Point Count Bulk Sample (Includes all cost such as postage, delivery, and courier)	EA	\$ 34.00	\$ 55.00
Transmission Electron Microscopy (TEM) Bulk Sample (Includes all cost such as postage, delivery, and courier)	EA	\$ 108.00	\$ 125.00
Phase Contrast Microscopy (PCM) Air Sample (Includes all cost such as postage, delivery, and courier)	EA	\$ 10.00	\$ 15.00
Transmission Electron Microscopy (TEM) Air Sample (Includes all cost such as postage, delivery, and courier)	EA	\$ 117.00	\$ 180.00

PRICE SCHEDULE A4
LEAD CONSULTING SERVICES
 SOLICITATION ADSP012-00001587

DESCRIPTION	PRICE		
		Non Rush	Rush
Atomic Absorption Spectroscope (AAS) Paint Chip Analysis <i>(Includes all cost such as postage, delivery, and courier)</i>	EA	\$ 19.50	\$ 29.25
Toxicity Characteristic Leaching Procedure (TCLP) Test <i>(Includes all cost such as postage, delivery, and courier)</i>	EA	\$ 100.00	\$ 150.00
Atomic Absorption Spectroscope (AAS) Soil Analysis <i>(Includes all cost such as postage, delivery, and courier)</i>	EA	\$ 19.50	\$ 29.25
Atomic Absorption Spectroscope (AAS) Air Analysis <i>(Includes all cost such as postage, delivery, and courier)</i>	EA	\$ 19.50	\$ 29.25