

INVITATION FOR BIDS



Sierrita Mountain

**Sierrita Mountain Water Co-Op
10390 S. Sierrita Mountain Road 26
Tucson, AZ 85736
(520) 780-8028**

Sealed bids will be received by the Sierrita Mountain Water Co-Op, **10390 S. Sierrita Mountain Road 26, Tucson, AZ 85736**, until **2:00 P.M. (AZ Time), Monday June 1, 2026**, for the **Sierrita Mountain Water Co-Op Water Infrastructure Improvements**. **No bids will be accepted after 2:00 P.M. (AZ Time), June 1, 2026**. The Bids will be publicly opened and read aloud at 2:00 P.M., Arizona time, at the location and date listed above.

All Bids shall be made on the Invitation for Bids forms included in the Contract Documents and shall include all applicable taxes.

There is a non-mandatory pre-bid meeting, scheduled via Zoom for 2:00 P.M. (AZ Time), Wednesday, May 20, 2026. The Zoom link will be provided to prospective bidders. Please call Manuel Ahumada at (520) 404-8533 to schedule an in-person site visit. Documents may also be downloaded on the Central Arizona Governments website by going to the following link: www.cagaz.org/employment.html

Each Bid submitted, either by hand, United States Postal Service, or other carrier, shall be sealed and plainly marked **Sierrita Mountain Water Co-Op Water System Improvements**. All Bids shall be mailed or delivered to the **Sierrita Mountain Water Co-Op, 10390 S. Sierrita Mountain Road 26, Tucson, AZ 85736**. The Sierrita Mountain Water Co-Op will not be responsible for bids submitted that are not marked appropriately or sent to the wrong address.

Contractors are invited to be present at the opening of bids, but absence will not be considered cause for disqualification.

Contractors shall be responsible for any licenses or permits required by the regulatory agency of the State of Arizona that apply to the performance of this contract.

The Sierrita Mountain Water Co-Op reserves the right to reject any or all bids, or to accept any bids, or to waive any informality in any bid, or to withhold the award if deemed in the best interest of the Co-Op.

Publish Date: **Monday, May 4, 2026**

**Sierrita Mountain Water Co-Op
Water Infrastructure Improvements Project**

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SCOPE

Sierrita Mountain Water Co-Op Water System Improvements Project

Sierrita Mountain Water Co-Op (Sierrita Mountain) serves just below three hundred residents most of whom are year-round retired residents in Sierrita Mountain near the City of Tucson in Pima County. The Three Points area has been designated as a Colonia by the United States Department of Agriculture. This project is listed as a high priority project. The water system consists of two wells, two storage tanks, two booster pumps, a pressure tank and a distribution system of 4-inch and 6-inch PVC pipes. Sierrita relies solely on groundwater as its source of supply and has no emergency interconnection with adjacent water systems. According to a recent system evaluation, the water system was reported to be in reasonably good physical condition.

Sierrita Mountain Water Co-Op proposes to make infrastructure improvements based on recommendations as listed in their system evaluation. System upgrades will include replacing the booster pumps, meters, pipes and valves, and installing desanders, a security system and remote alarming capabilities at well sites. The contractor shall provide all the manpower, equipment and materials for efficient execution of the contract and adhere to all applicable MAG construction standards, specifications and procedures. Construction activities will include installing physical security at the water facilities (fence, gates, lights), basic operational alarming capabilities (radio/telemetry), two new pumps, looping the distribution system, new isolation valves, new meters with AMR technology, service line replacements, and desanders at both the wells to combat sand from entering the distribution system. In addition, the evaluation recommended both tanks be cleaned and repaired, if necessary, after an inspection. These are critical projects to replace and upgrade infrastructure in an existing community which will allow the system to maintain compliance. This is a Water Infrastructure Authority of Arizona (WIFA) Project.

The following is a description of the work to be performed.

- Mobilization – shall be included in the unit bid prices
- Brandywine Road Improvements – Deliver & Install AB
- Purchase and install 70 New AMR Water Meters (includes 2 spare)
- New water meter boxes – 68
- Replace service lines
- AMR Meter Reading Equipment
- AMR Meter Reading Software (Annual Fee)
- Replacement of two booster pumps
- Replacement of 550 ft Loop Distribution System – 4” C900
- Install four isolation valves – 6”
- Install four isolation valves – 4”
- Purchase and install two well desanders
- Well site security and lights
- Contractor must have a current Arizona Registrar of Contractors license (AZROC).

Attachments:

ATTACHMENT 1:

Complete Contract Package for Professional Services - WIFA

INSTRUCTIONS TO BIDDERS

1. BID DOCUMENTS

All bids must be made on the required forms included in the Contract Documents. Bids will include the Bid Form, Bid Schedule and Bidder's Bond. All information provided by the bidder must appear in ink or typewritten and shall be signed by the bidder or their authorized representative, with their address. Bids may be withdrawn prior to the scheduled time of opening. No bidder shall withdraw their bid within forty-five (45) days after the actual date of opening.

Bid prices shall include everything necessary for the completion of construction, materials/equipment delivery and the fulfillment of the contract including but not limited to furnishing all labor, services, management, equipment, tools and materials. All applicable taxes shall be included in the bid price.

The bid **shall** include:

- Bid – Exhibit A
- All Addenda
- Bid Schedule – Exhibit B
- Bid Bond or Cashier's Check – Exhibit C
- Qualifications & Certification Form – Exhibit D
- Contractor Reference List – Exhibit E
- Non-Collusion Certification – Exhibit F
- Subcontractors and Material Suppliers List – Exhibit G
- Subcontractor Certification – Exhibit H
- Certification Regarding Debarment – Exhibit L
- Example Notice of Award – Exhibit M

2. BIDDER'S REPRESENTATION

Each Bidder by making their bid represents that they have carefully examined and understand the Bidding Documents; that they have visited the site and familiarized themselves with the local conditions and limitations under which the work is to be performed and that they have included a sum in their bid to cover the cost of all items included in the Bidding Documents.

If during the course of their site inspection and/or bid preparation the bidder finds discrepancies between the actual conditions and plans/contract documents the bidder shall request, in writing, to the Co-Op or Engineer additional information and clarification before submitting their bid.

3. EXAMINATION OF BIDDING DOCUMENTS & ADDENDA

Should a bidder find discrepancies, inconsistencies, obscurities or omissions from the Bidding Documents they shall at once notify Manual Ahumada, in writing via e-mail to ahumadamega@gmail.com, who may issue a written addendum clarifying the intent of the Documents. Neither Co-Op nor Engineer will be responsible for oral instruction or information.

Prior to the receipt of bids, Addenda will be emailed to each person or firm recorded by Sierrita Mountain as having received the Bidding Documents. Addenda will also be available for inspection wherever the Bidding Documents are kept available for that purpose.

All Addenda issued during the time of bidding are to be included in the bid and shall become a part of the Bidding Documents. Acknowledge receipt of Addenda on the Bid Form in the space provided.

4. INQUIRIES

All questions related to the Invitation for Bid shall be directed in writing via e-mail to Manual Ahumada at ahumadamega@gmail.com by **Friday, May 22, 2026, 4:00 P.M. (AZ Time)**. Any correspondence related to the Invitation for Bid should refer to the appropriate Request for Bid ID, page, and paragraph number. All questions will be answered no later than **Tuesday, May 26, 2026**, through an Addendum.

5. BIDDER'S BOND

Bid must be accompanied by a cashier's check, a certified check, or a bidder's bond in an amount not less than ten (10%) percent of the amount of the contractor's total bid. Bid bonds must be executed by a duly licensed corporate surety in the State of Arizona and be made payable without condition to the Co-Op. Said bid security shall be considered liquidated damages and be forfeited to the Co-Op in the event the bid is accepted, and the successful bidder fails to execute the contract and furnish contract documents within 10 days after the Award of Contract as required by the contract documents.

6. CONTRACT

Within 10 days of receipt of Notice of Award the bidder shall obtain an acceptable performance and payment bond and shall execute the Contract with the Co-Op. Within 10 days of execution of the Contract the Co-Op shall issue a Notice to Proceed.

7. SUBCONTRACTOR'S AND SUPPLIERS

The successful bidder shall supply the name and address of material/equipment suppliers and subcontractors when requested by the Co-Op.

8. DEBARMENT CERTIFICATION

The successful Bidder is required to complete and sign the "Debarment Certification" contained in these Contract Documents.

9. NON-COLLUSION AFFIDAVIT CERTIFICATION

The successful Bidder is required to provide a completed and notarized "Non-Collusion Affidavit Certification" contained in these Contract Documents.

10. TIME OF COMPLETION AND LIQUIDATED DAMAGES

Bidder agrees to commence work within 10 days of the date of the Notice to Proceed from the Co-Op and final completion within **approximately 240** calendar days after Notice to Proceed. Bidder also agrees to pay liquidated damages, the sum of **\$500.00** for each consecutive calendar day thereafter.

EXHIBIT A: BID

Date: _____

The undersigned, as bidder, acknowledges that they have received and examined the Contract Documents, Plans, and Specifications for the:

Sierrita Mountain Water Co-Op Water System Improvements Project

By submission of this bid we certify this bid has been arrived at independently, without consultation, communication or agreement as to any matter related to this bid with any other bidder for this contract.

Attached is a Bid Guaranty Bond completed by a surety authorized to carry on a business in the State of Arizona, or a cashier's check, in the amount of at least ten (10%) percent of the total amount of this bid. If our bid is accepted, we agree to sign the Contract and to furnish the Performance Bond and Payment Bond and evidence of insurance within 10 days after receiving written Notice of Award.

We agree to commence work within 10 days of the date of the Notice to Proceed and to fully complete the contract within **approximately 240** calendar days after Notice to Proceed.

We acknowledge we have received the following addenda:

Addendum No.	Date	Addendum No.	Date
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Addendum No.	Date	Addendum No.	Date
--------------	------	--------------	------

Contractor's Signature	(Print Name)	Title
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Company Name

Address

Telephone	Email
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Arizona Contractor's License #

EXHIBIT B: BID SCHEDULE
Sierrita Mountain Water Co-Op Water
Infrastructure Improvement Project

No.	Description	Quantity	Unit Price	Extended Total
1	Brandywine Road Improvements Deliver & Install AB	1800 tons	\$	\$
2	New AMR Water Meters	70	\$	\$
3	Install Water Meters	68	\$	\$
4	New Water Meter Boxes	68	\$	\$
5	Replace Service Lines	25	\$	\$
6	AMR Meter Reading Equipment	1	\$	\$
7	AMMR Meter Reading Software (Annual Fee)	1	\$	\$
8	Replace Booster Pumps	2	\$	\$
9	Loop Distribution System – 4” C900	550 ft	\$	\$
10	Install Isolation Valves 6”	4	\$	\$
11	Install Isolation Valves 4”	4	\$	\$
12	Well Desanders	2	\$	\$
13	Install Well Desanders (pull pump, camera, bail well)	2	\$	\$
14	Well Site Security and Lights	1	\$	\$
15	Taxes		LS	\$
TOTAL BID AMOUNT				\$

TOTAL BID PRICE

\$ _____
(In Numbers)

Dollars

(In Words)

Cents

(In Words)

EXHIBIT C: SURETY (BID) BOND

(Penalty of this bond must not be less than 10% of the bid amount)

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____
as Principal, hereinafter called the Principal, and _____,
a corporation duly organized under the laws of the State of _____,
as Surety, hereinafter called the Surety, holding a certificate of authority to transact surety
business in this State issued by the Director of the Department of Insurance, are held and firmly
bound unto Sierrita Mountain Water Co-Op as Obligee, hereinafter called the Obligee, in the sum
of ten percent (10%) of the amount bid, submitted by Principal to Sierrita Mountain Water Co-Op
for the work described below, for the payment of which sum well and truly to be made, the said
Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors,
and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is herewith submitting its bid for:

**CONTRACT NO. DW 024-2024 Sierrita Mountain Water Co-Op Water Infrastructure
Improvements**

NOW THEREFORE, if the Obligee, acting by and through its Public Works Director, accepts the
bid of the Principal and the Principal shall enter into contract with the Obligee in accordance with
the terms of such bid, and give such bonds and certificates of insurance as may be specified in
the contract documents with good and sufficient surety for the faithful performance of such
contract and for the prompt payment of labor and material furnished in the prosecution thereof, or
in the event of the failure of the Principal to enter into such contract and give such bonds and
certificates of insurance, if the Principal shall pay to the Obligee the difference not to exceed the
penalty of the bond between the amount specified in the bid and such larger amount for which
the Obligee may in good faith contract with another party to perform the work covered by the bid
then this obligation is void. Otherwise, it remains in full force and effect provided, however, that
this bond is executed pursuant to the provisions of ARS 34-201, and all liabilities on this bond
shall be determined in accordance with the provisions of the section to the extent as if it were
copied at length herein.

IN WITNESS WHEREOF, we hereunto set our hands and seals:

Principal _____ **Surety**

By _____ **By Attorney-in-Fact**

Title _____ **Address, Attorney-in-Fact**
Subscribed and sworn to before me
this ____ day of _____, 20__

My commission expires: _____

Notary Public _____

EXHIBIT D: QUALIFICATION AND CERTIFICATION FORM

Purpose

This exhibit shall serve as a requirement to enable the evaluation team to assess the qualifications of Contractors under consideration for final award.

The information may or may not be a determining factor in award.

The applicant submitting this Bid warrants the following:

1. Name, Address, and Telephone Number of Principal Contractor:

2. Has Contractor (under its present or any previous name) ever failed to complete a contract?
_____Yes _____No. If "Yes", give details, including the date, the contracting agency, and the reasons Contractor failed to perform, in the narrative part of this Contract.
3. Has Contractor (under its present or any previous name) ever been disbarred or prohibited from competing for a contract? _____Yes _____No. If "Yes", give details, including the date, the contracting agency, the reasons for the Contractors disqualification, and whether this disqualification remains in effect, in the narrative part of this Contract.
4. Has a contracting agency ever terminated a contract for cause with Contractor (under your firm's present or any previous name)? _____Yes _____No. If "Yes", give details including the date, the contracting agency, and the reasons Contractor was terminated, in the narrative part of this Contract.
5. Contractor must also provide at least the following information:
 - a. A brief history of the Contractors Firm.
 - b. Costs shall be submitted on the Bid Schedule attached hereon and made a full part of this contract by this reference.
 - c. A list of previous and current customers, which are considered identical or similar to the Scope of Work described herein; shall be submitted on the Reference List, attached hereon and made a full part of this contract by this reference.
 - d. List of any subcontractors (if applicable) to be used in performing the service must accompany the Bid. The subcontractors Arizona ROC License number, contact name, and phone # must be included.
 - e. List the specific qualifications the Contractor has in supplying the specified services.
 - f. Sierrita Mountain Water Co-Op reserves the right to request additional information.

EXHIBIT E: CONTRACTOR REFERENCE LIST

These references are required to enable the evaluation team to assess the qualifications of the Contractor under consideration for final award. The information may be a determining factor in award.

References

Please list a minimum of four (4) references for projects of similar size and scope as this Invitation for Bid during the past twelve (12) months, in, or as close to the Sierrita Mountain Water Co-Op as possible.

1. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

2. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

3. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

4. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

Name of Business

Signature of Authorized Representative

EXHIBIT G: SUBCONTRACTORS AND MATERIAL SUPPLIERS LIST

The successful bidder shall list below the names of all qualified subcontractors or material suppliers they will employ for the various portions of the work indicated. This list shall be provided at the pre-construction meeting.

SPECIALTY	SUBCONTRACTOR/MATERIAL SUPPLIER	LICENSE #

EXHIBIT H: SUBCONTRACTOR CERTIFICATION

At the time of the submission of bids on:

DW 024-2024: Sierrita Mountain Water Co-Op Water Infrastructure Improvement Project,

my intention concerning subcontracting a portion of the work is as indicated below.

In indicating that it is my intention to subcontract a portion of the work, this will acknowledge that such subcontractors will be identified and approved by the Co-Op prior to award of this contract; and that documentation, such as copies of letters, request for quotations, quotations, etc., substantiating the actions taken and the responses to such actions is on file and available for review.

A list of any subcontractors to be used in performing the service must accompany the Bid. The list must include the subcontractors name, address, and phone number.

_____ It is my intention to subcontract a portion of the work.

_____ It is not my intention to subcontract a portion of the work.

(Name of Business)

(By)

(Title)

(Date)

EXHIBIT I: STATUTORY PERFORMANCE BOND

PURSUANT TO TITLE 34, CHAPTER 2, ARTICLE 2 OF THE ARIZONA REVISED STATUTES

(PENALTY OF THIS BOND MUST BE 100% OF CONTRACT AMOUNT)

KNOW ALL MEN BY THESE PRESENTS:

That, _____, (hereinafter called the Principal), as Principal, and _____

(hereinafter called Surety), a corporation duly organized and existing the laws of the State of

_____ with its principal office in the city of _____ holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance, as Surety, are held and firmly bound unto Sierrita Mountain Water Co-Op (hereinafter called the Obligee) in the amount of (100% OF CONTRACT AMOUNT) _____ dollars \$_____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrator, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the **DW 024-2025 Sierrita Mountain Water Co-Op Water Infrastructure Improvements**, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extension thereof, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; then the above obligation shall be void, otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title, Chapter and Article, so the extent as if they were copied at length herein.

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

Witness our hands this _____ day of _____, 2026.

Principal **Seal**

Surety **Seal**

By:

Agency of Record

By:

Arizona Countersignature

Agency Address

Address

Phone Number

EXHIBIT J: STATUTORY LABOR AND MATERIALS BOND

PURSUANT TO TITLE 34, CHAPTER 2, ARTICLE 2 OF THE ARIZONA REVISED STATUTES

(PENALTY OF THIS BOND MUST BE 100% OF CONTRACT AMOUNT)

KNOW ALL MEN BY THESE PRESENTS:

That, _____, (hereinafter called the Principal), as Principal, and _____ (hereinafter called Surety), a corporation duly organized and existing the laws of the State of _____ with its principal office in the city of _____ holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance, as Surety, are held and firmly bound unto Sierrita Mountain Water Co-Op (hereinafter called the Obligee) in the amount of (100% of Contract Amount) _____ dollars (\$_____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrator, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has agreed to enter into a certain contract with the Obligee for:

DW 024-2024 Sierrita Mountain Water Co-Op Water Infrastructure Improvements

, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extension thereof, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; then the above obligation shall be void, otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title, Chapter and Article, so the extent as if they were copied at length herein.

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

Witness our hands this _____ day of _____, 2026.

Principal **Seal**

Surety **Seal**

By:

Agency of Record

By:

Arizona Countersignature

Agency Address

Address

Phone Number

EXHIBIT K: CONTRACT PERFORMANCE WARRANTY

I, _____,
representing

(company name)

do hereby warranty the work performed for the: **Sierrita Mountain Water Co-Op Water System Improvements Project for the Sierrita Mountain Water Co-Op** for a period of **two (2) years** from completion of said work.

Said work shall be free from defects which would cause the work not to perform in its intended manner.

(Officer, Partner, Owner)

Date

**EXHIBIT L: CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- B. Have not within a three year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- D. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this bid or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name and Title of Authorized Representative

Signature of Authorized Representative

_____ I am unable to certify the above statements. My explanation is attached.

EXHIBIT M: EXAMPLE NOTICE OF AWARD

**Sierrita Mountain Water Co-Op
Water System Improvements Project**

To: _____

The bid submitted by you on _____, 2026 for the above referenced work has been reviewed and evaluated by the Sierrita Mountain Water Co-Op. You are hereby notified you bid has been accepted in the amount of \$_____.

You are required by the Instructions to Bidders to execute the Contract and furnish the required Performance Bond and Payment Bond within ten (10) calendar days of receipt of this Notice.

If you fail to execute the Contract and/or to furnish the required bonds within ten (10) days of receipt of this Notice, the Sierrita Mountain Water Co-Op will be entitled to consider your bid abandoned and as a forfeiture of your Bid Bond. The Co-Op will be entitled to such other rights as may be granted by law.

You are required to return a signed copy of this Notice of Award to the Sierrita Mountain Water Co-Op.

Dated this _____ day of _____, 2026.

Sierrita Mountain Water Co-Op:

Manual Ahumada, Project Manager, Sierrita Mountain Water Co-Op

CONTRACTOR:

Signature

Date

CERTIFICATES OF INSURANCE

Certificates of Insurance acceptable to the Co-Op shall be filed with the Co-Op prior to commencement of the work. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the Co-Op. Insurance requirements are outlined in the Special Provisions.

Insurance Requirements

A. The Contractor shall purchase and maintain such insurance as will protect them from claims set forth below which may arise out of or result from the Contractor's execution of the Work, whether such execution be by himself or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts of them the Contractor may be liable.

- 1) Claims under workman's compensation, disability benefit and other similar employee benefit acts;
- 2) Claims for damages because of bodily injury, occupational sickness or disease, or death of their employees;
- 3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than their employees;
- 4) Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- 5) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- 6) Claims for damages because of automobile bodily injury and property damage; and
- 7) Umbrella Coverage.

B. Certificates of Insurance acceptable to the Co-Op shall be filed with the Co-Op prior to commencement for the work. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior Written Notice has been given to the Co-Op.

C. The insurance policies shall indemnify the Sierrita Mountain Water Co-Op and the minimum amount of coverage shall be as hereafter specified:

CONTRACTOR'S General Public Liability and Property Damage Insurance including vehicle coverage issued to the CONTRACTOR and protecting them from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under them. Insurance shall be written with a limit of liability of no less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$2,000,000 aggregated for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident.

The Contractor will be required to purchase and maintain Worker's Compensation Insurance, including occupational disease provisions, for all employees at the site of the project and in case any work is sublet, the Contractor shall require such Subcontractor similarly to provide Worker's Compensation Insurance, including occupational disease provisions, for all the latter's employees unless such employees are covered by the protection afforded by the Contractor.

WIFA CONTRACT NO. DW 024-2024
WATER INFRASTRUCTURE IMPROVEMENTS PROJECT
SIERRITA MOUNTAIN WATER CO-OP

THIS CONTRACT is made and entered into on the _____ day of _____, 2026, by and between Sierrita Mountain Water Co-Op, hereinafter called “**Co-Op**” and the “**Contractor**” designated below:

Co-Op and Contractor agree as follows:

ARTICLE 1 – PARTICIPANTS AND PROJECT

PROJECT MANAGER:	Manual Ahumada Sierrita Mountain Water Co-Op Telephone: 520-404-8533 E-mail: ahumadamega@gmail.com
DAVIS BACON COMPLIANCE:	Central Arizona Governments Angela Gotto Andrea Robles Telephone: 480-474-9300 E-mail: agotto@cagaz.org ; arobles@cagaz.org
CONTRACTOR:	
ENGINEER / DESIGNER:	
PROJECT DESCRIPTION:	Water Infrastructure Improvements Project
PROJECT LOCATION:	10390 S. Sierrita Mountain Road 26 Tucson, AZ 85736

ARTICLE 2 – CONTRACT DOCUMENTS

2.1 Contract. The Contract between Co-Op and Contractor shall consist of the following items:

- Change Orders
- Addenda
- Bid Documents
- Special Provisions
- Project Specifications and Contract Documents
Web Site: <https://azdot.gov/business/ContractsandSpecifications/Specifications>
- MAG Uniform Standard Specifications & Details for Public Works Construction
Web Site: <https://azmag.gov/Programs/Public-Works/Specifications-and-Details>

In the event of a conflict of language between the items, the documents shall govern in the order listed above. The contract documents shall govern in all other matters not otherwise specified by the Contract between the parties. All previous contracts between the Bidder and Co-Op are not applicable to this Contract or other resultant contracts.

ARTICLE 3 – DESIGN PHASE SERVICES

Contractor **is not** required to provide Design Phase Services to the Co-Op in relation to this Project.

ARTICLE 4 – CONSTRUCTION SERVICES

4.1 General.

- 4.1.1 Contractor agrees at its own cost and expense, to do all work necessary and required to fully, timely and properly complete the construction of the Project in strict accordance with the Contract Documents in a good and workmanlike manner, free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified, within the Project Schedule.
- 4.1.2 Contractor shall provide all the labor and materials, and perform the Work in accordance with Section 4 of the General Conditions. Some but not all of the major components of the Construction Services and the corresponding subsections of Section 4 of the General Conditions are set forth below.
- 4.1.3 At all times relevant to this Contract and performance of the Work, the Contractor shall fully comply with all Laws, Regulations, or Legal Requirements applicable to Co-Op, the Project and the Contract, including, without limitation, those set forth in the General Conditions.
- 4.1.4 Contractor shall perform the Work under this Contract using only those firms, team members and individuals designated by Contractor consistent with Contractor's accepted Bid, or otherwise, approved by Co-Op pursuant to the General Conditions. No other entities or individuals may be used without the prior written approval of the Project Manager.

- 4.1.5 Contractor will comply with all terms and conditions of the General Conditions.
- 4.1.6 In the event of a conflict between this Contract and the General Conditions or any exhibit hereto or appendix thereto, the terms of this Contract shall control.
- 4.1.7 Ownership of Work Product. Notwithstanding anything to the contrary in this Contract, all Work Product prepared or otherwise created in connection with the performance of this Contract, including the Work, are to be and remain the property of the Co-Op. For purposes of this provision, "Work Product" shall include all designs, drawings, plans, specifications, ideas, renderings and other information or matter, in whatever form created (e.g., electronic or printed) and in all media now known or hereinafter created. All Work Product shall be considered Work Made for Hire as defined in the United States Copyright Act 17 U.S.C. § 101 (Copyright Act). If for any reason any such Work is found not to be a work for hire, Contractor hereby transfers and assigns ownership of the copyright in such Work to the Co-Op. The rights in this Section are exclusive to Co-Op in perpetuity.

4.2 Contractor's Pre-Contract and Pre-Work Deliverables.

- 4.2.1 The Contractor will provide the Deliverables in accordance with Section 4.2 of the General Conditions.

4.3 Pre-Construction Conference. Contractor shall attend the Pre-Construction Conference in accordance with Section 4.3 of the General Conditions.

4.4 Performance of the Work (Including Field Measurements, Subcontractors, and Suppliers). Contractor shall perform the Work in accordance with Section 4.4 of the General Conditions.

4.5 Control of The Project Site. Contractor shall control and maintain the Project Site in accordance with Section 4.5 of the General Conditions.

4.6 Project Safety. Contractor shall implement and enforce Project safety in accordance with Section 4.6 of the General Conditions.

4.7 Materials Quality, Substitutions and Shop Drawings. Contractor shall provide materials testing and submit substitute materials and shop drawings in accordance with Section 4.7 of the General Conditions.

4.8 Project Record Documents. Contractor shall maintain and make available the Project Record Documents in accordance with Section 4.8 of the General Conditions.

4.9 Warranty and Correction of Defective Work. Contractor shall provide warranties and correct defective Work in accordance with Section 4.9 of the General Conditions.

ARTICLE 5 – Co-Op RESPONSIBILITIES

5.1 Co-Op shall have the responsibilities, and provide the information specified in, and subject to the conditions set forth in, Section 5 of the General Conditions.

ARTICLE 6 - CONTRACT TIME

6.1 Contract Time.

6.1.1 The Contract Time shall start with the Notice to Proceed (NTP) and end with Final Acceptance, as set forth Section 6.4 below. The Notice to Proceed cannot be issued until prior to the approval and acceptance by the Co-Op of the Bid.

6.1.2 The Contract Time shall be as set forth in the Project Schedule. Contractor agrees that it will commence performance of the Work and complete the Project within the Contract Time.

6.1.3 Time is of the essence of this Contract, for the Project, and for each phase and/or designated Milestone thereof.

6.1.4 Failure on the part of Contractor to adhere to the approved Project Schedule will be deemed a material breach and sufficient grounds for termination of this Contract by the Co-Op.

6.2 Project Schedule. The Project Schedule as set forth and/or an Exhibit to this Contract shall be updated and maintained throughout Contractor's performance under this Contract in accordance with Section 6.2 of the General Conditions.

6.3 Final Completion and Final Acceptance.

6.3.1 Final Completion will be obtained within the time period set forth in the Project Schedule, which is **approximately 240 calendar days**.

6.3.2 Final Completion will be Sections 6.3 and 6.4 of the General Conditions.

6.4 Liquidated Damages.

6.4.1 Liquidated Damages. Contractor acknowledges and agrees that if Contractor fails to obtain Completion of the Work within the Contract Time, the Co-Op will sustain extensive damages and serious loss as a result of such failure. The exact amount of such damages will be extremely difficult to ascertain. Therefore, the Co-Op and Contractor agree that if Contractor fails to achieve Completion of the Work within the Contract Time, the Co-Op shall be entitled to retain or recover from Contractor, as liquidated damages and not as a penalty, the following per diem amounts commencing from the Completion Date required under the Contract until the actual date of the Completion of the work.

- 6.4.2 MAG Liquidated Damages. If no liquidated damages are specified in Sections 6.4.1 above, then the liquidated damages provisions in MAG § 108.9 shall apply.
- 6.4.3 Co-Op may deduct liquidated damages described in this Section 6.4 above from any unpaid amounts then or thereafter due Contractor under this Contract. Any liquidated damages not so deducted from any unpaid amounts due Contractor shall be payable to the Co-Op at the demand of the Co-Op, together with interest from the date of the demand at the highest lawful rate of interest payable by Contractor.
- 6.4.4 Nothing herein shall be deemed to constitute a waiver of any other remedy available to the Co-Op in the event of Contractor's default under this Contract prior to full performance of the Work including, as applicable, specific performance or completion of the Work on behalf of Contractor, the cost and expense of which shall be offset against any monies then or thereafter due to Contractor (if any) and otherwise immediately reimbursed to the Co-Op by Contractor.

ARTICLE 7 - CONTRACT PRICE

7.1 Contract Price.

- 7.1.1 In exchange for Contractor's full, timely, and acceptable performance and construction of the Work under this Contract, and subject to all of the terms of this Contract, the Co-Op will pay Contractor the "Contract Price", which is \$ _____. Price includes _____ Co-Op's Contingency. Use of the Co-Op's Contingency must be authorized by the Co-Op and only under an approved Change Order.
- 7.1.2 The Contract Price is all inclusive and specifically includes all fees, costs, insurance and bond premiums, and taxes of any type necessary to fully, properly and timely perform and construct the Work.

- 7.2 Costs. For any portion of the Work which, either through this Contract, Change Order or otherwise, is performed and paid for on a cost or time and materials basis which may be reimbursed to Contractor and/or chargeable against the Contract Price.

ARTICLE 8 – PAYMENT

Payments shall be made to Contractor in accordance with Section 8 of the General Conditions.

ARTICLE 9 – CHANGES TO THE CONTRACT

Changes to the Contract may be made in strict accordance with Section 9 of the General Conditions.

ARTICLE 10 – SUSPENSION AND TERMINATION

This Contract may be suspended and/or terminated in accordance with Section 10 of the General Conditions.

ARTICLE 11 – INSURANCE AND BONDS

- 11.1 Contractor shall provide Insurance as provided in the Insurance Requirement, and in accordance with Section 11.1 of the General Conditions. Contractor shall provide proof of such insurance and all required endorsements in forms acceptable to the Co-Op prior to commencing any Work under this Contract.
- 11.2 Contractor shall provide performance and payment bonds to the Co-Op in accordance with Section 11.2 of the General Conditions and A.R.S. § 34-222(A).
- 11.3 Failure to provide proof of insurance and the required endorsements, or the required bonds, in forms acceptable to the Co-Op, will be a material breach and grounds for termination for cause of this Contract.

ARTICLE 12 – INDEMNIFICATION

Contractor shall have and assume the indemnity obligations set forth in Section 12 of the General Conditions.

ARTICLE 13 - DISPUTE RESOLUTION

Any claims or disputes relating to this Contract shall be resolved according to the dispute resolution process set forth in Section 13 of the General Conditions.

ARTICLE 14 – MISCELLANEOUS PROVISIONS

The miscellaneous provisions set forth in Section 14 of the General Conditions shall apply to this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract through their duly authorized representatives and bind their respective entities as of the effective date.

SIERRITA MOUNTAIN CO-OP:

CONTRACTOR:

By: _____

By: _____

ATTEST:

Its: _____

GENERAL CONDITIONS OF CONTRACT

These terms will be the General Conditions for any Contract and are incorporated therein and shall be fully binding upon the Submitter/Contractor.

SECTION 1 — SCOPE OF THESE GENERAL CONDITIONS

These General Conditions encompass provisions that apply, and are incorporated into all construction contracts entered into by the Sierrita Mountain Water Co-Op, unless otherwise specifically excluded in the executed Contract. Sections 2 through 14 of these General Conditions apply to all construction contracts, in whatever form, including without limitation, Fixed Price, Construction Manager at Risk (CM@Risk), Guaranteed Maximum Price (GMP) Cost-Based, and Job Order Contracts (JOC).

SECTION 2 — GENERAL DEFINITIONS

2.1. The Definitions in the Invitation for Bid (IFB), the Request for Proposals (RFP), the Request for Qualifications (RFQ) and/or the JOC Solicitation (JOC) giving rise to the Contract shall apply to these General Conditions and the Contract for the Project.

2.2. Change Order – A written instrument issued after execution of the Contract Documents signed by the Co-Op and Contractor, stating their agreement upon all of the following: the addition, deletion or revision in the scope of services or deliverables; the amount of the adjustment to the Contract Price, the extent of the adjustment to the Contract Time, or modifications of other contract terms. The Contract Price and the Contract Time may be changed only by Change Order.

2.3. Sierrita Mountain Water Co-Op (Co-Op or CO-OP) – The Co-Op with whom Contractor has entered into the Contract and for whom the Services and/or Work are to be provided pursuant to the Contract(s).

2.4. Contingency - A funding allocation for costs that result from the Co-Op directed changes or unforeseen site conditions. **The use of the contingency must be authorized by the Co-Op and only under an approved Change Order.** These funds are to be used only at the discretion of the Co-Op to cover any increases in Project costs that result from the Co-Op's directed changes or unforeseen site conditions. Any unused contingency amount shall be retained by the Co-Op.

2.5. Contract – The written agreement executed between the Co-Op and Contractor, including all of the Contract Documents.

2.6. Contract Documents – The documents which together form the Contract between the Co-Op and Contractor, as identified in Article 2 of the Contract, or are otherwise incorporated into the Contract, including the Contract, the exhibits thereto, these General Conditions, any Notice to Proceed, and any Job Order (if applicable), the Plans and Specifications, Project Schedule, written and properly executed Change Orders, MAG Specifications and the Co-Op's amendments thereto, and any other documents so designated in the Contract.

2.7. Contract Price – The agreed-upon price to be paid to Contractor for full, timely, and acceptable completion of the Services or Work under the terms of the Contract.

2.8. Contract Time(s) – The number of days or the dates related to the Final Completion as stated in Contract Documents. The Contract Time is set forth in the Contract, and is based upon the Project Schedule agreed to by the Co-Op in writing.

2.9. Contractor – The person or corporation with whom the Co-Op has entered into a contract for construction related work or services in relation to the Project at issue. As used in these General Conditions, the term Contractor includes CM@Risk and JOC under contract with the Co-Op to provide pre-construction and/or construction services.

2.10. Contractor Payment Request – The form that is accepted by the Co-Op and used by Contractor in requesting progress payments or final payment and which shall include such supporting documentation as is required by the Contract Documents and/or the Co-Op.

2.11. Construction Documents – The plans, specifications, and drawings prepared and issued by the Design Professional and approved by the Co-Op for construction, meaning the documents are sealed by the Contractor (as required), acceptable for permitting and incorporated into the Contract by reference. All amendments and modifications to the Construction Documents must be approved in writing by the Co-Op prior to incorporation into the Contract.

2.12. Critical Path – Critical path is the sequence of project network activities which add up to the longest overall duration. Once established in the Project Schedule, the Critical Path for the Project shall not be changed without prior written approval of the Co-Op.

2.13. Day Calendar day(s) unless otherwise specifically stated in the Contract Documents.

2.14. Final Acceptance – The written notice from the Co-Op to the Contractor that Final Completion has occurred.

2.15. Final Completion – The point when all items of work, including Punch List Items, have been completed to Co-Op's satisfaction as reflected in the written Final Acceptance.

2.16. Float – The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Contract Time. Unless otherwise expressly agreed in writing, all Float belongs to the Co-op.

2.17. MAG Specifications – The latest revision of the latest edition of the Uniform Standard Specifications for Public Works Construction published by MAG.

2.18. MAG Standard Details – The latest revision of the latest edition of Uniform Standard Details as published by MAG.

2.19. Notice to Proceed (NTP) – A written notice given by the Co-Op to Contractor fixing the date on which Contractor will start to perform Contractor's obligations under the Contract. The Notice to Proceed shall not be issued until the Contract Price is approved and accepted by the Co-Op.

2.20. Project – The Project specified in the Contract (including a Job Order).

2.21. Project Manager – The Project Manager designated in Article 1 of the Contract, or any successor thereto designated by the Co-Op. The Project Manager has the authority to act

on behalf of the Co-Op, as delineated and limited by the Contract Documents and applicable law. The Co-Op shall communicate with Contractor through the Project Manager. However, the Project Manager has no authority to bind the Co-Op in contravention of any City code, State or Federal statute or regulation, or these General Conditions.

2.22. Project Schedule – The schedule for the completion of the Project agreed to and/or required by the Co-Op and incorporated into the Contract.

2.23. Project Specific Provisions – Additional conditions which apply to the specific Project and/or Scope of Work.

2.24. Proposal – A Proposal submitted to the Co-Op by a Contractor in response to an Invitation for Bid (IFB), Request for Qualifications (RFQ), a Request for Proposals (RFP) or other solicitation or request by the Co-Op. Bids may be Fixed Price, Guaranteed Maximum Price (GMP), Unit Price, or other form as required or requested by the Co-Op in the Bid Schedule.

2.25. Requests for Information (RFIs) – Formal written request from Contractor to the Co-Op and/or Contractor for the Project seeking clarification or additional information needed for Contractor to properly complete the Work and/or Services under the Contract. The Co-Op may require RFI's to be submitted on a specific form or in a specified format.

2.26. Schedule of Values (SOV) – The specified document prepared by Contractor, and approved and accepted by the Co-Op, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price.

2.27. Scope of Work – The scope of work agreed to and/or required by the Co-Op and incorporated into the Contract as set forth in the IFB and/or an Exhibit to the Contract.

2.28. Subconsultant – A person, firm or corporation having a Contract with Consultant/Contractor to furnish services required as its independent professional associate or consultant with respect to the Project.

2.29. Subcontractor – An individual or firm having a direct Contract with Contractor or any other individual or firm having a Contract with the aforesaid contractors at any tier, who undertakes to perform a part of the pre-construction services or construction phase Work at the site for which Contractor is responsible. Subcontractors shall be selected through the Subcontractor selection process described in the Contract Documents, if any.

2.30. Total Float – Number of Days by which the pre-construction services or construction phase Work or any part of the same may be delayed without necessarily extending a pertinent Contract Time or schedule milestone in the Project Schedule.

2.31. Work – The entire completion of construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

SECTION 3 — STANDARD SPECIFICATIONS AND DETAILS

- 3.1. Co-Op operates under the latest revision of the MAG Specifications.
- 3.2. Co-Op also operates under the MAG Standard Details.
- 3.3. Copies of the MAG Specifications and MAG Standard Details are available at the Maricopa Association of Governments office, 302 N. 1st Avenue, Suite 300, Phoenix, Arizona. They may also be downloaded at their Web site: <https://azmag.gov/Programs/Public-Works/Specifications-and-Details>
- 3.4. The MAG Specifications and Standard Details are incorporated into the Contract.

SECTION 4 — CONTRACTOR'S RESPONSIBILITIES FOR CONSTRUCTION SERVICES

4.1 General

4.1.1 Contractor shall construct the Work in accordance with the Contract Documents and as outlined in the Contract Documents to the satisfaction of the Co-Op, exercising the degree of professional care, skill, diligence, quality and judgment that a professional Contractor engaged, experienced and specializing in the construction of facilities of similar scope, function, size, quality, complexity and detail in urban areas throughout the United States comparable to the Co-Op would exercise at such time, under similar conditions. Contractor shall, at all times, perform the Work in conformance with sound and generally accepted engineering principles and construction management and construction contracting practices.

4.1.2 Contractor shall comply with, and require all Subcontractors to comply with, the Arizona Contractors' license laws, including all requirements with respect to being duly registered and licensed.

4.1.3 Immigration Laws: Pursuant to A.R.S. § 41-4401, Contractor warrants to the Co-Op that Contractor and all its subcontractors are in compliance and will comply with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. § 23-214(A). Contractor acknowledges that a breach of this warranty by Contractor or any of its subcontractors is a material breach of this Contract subject to penalties up to and including termination of the Contract or any subcontract. The Co-Op retains the legal right to inspect the papers of any employee of or any subcontractor who works on this Contract to ensure compliance with this warranty, and may conduct random verification of the employment records of Contractor and any of its subcontractors to ensure compliance with this warranty. The Co-Op will not consider Contractor or any of its subcontractors in material breach of the foregoing warranty if Contractor and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A). The provisions of this Section must be included in any agreement Contractor enters into with its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property. Breach of this warranty shall constitute a material breach of the contract and shall subject the Contractor to penalties including termination of the Contract at the sole discretion of the Co-Op.

4.1.4 Contractor further understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The Contractor understands and acknowledges that it must also comply with A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited", and A.R.S. § 34-302, as amended, "Residence Requirements for Employees," and A.R.S. §§ 1-501 and 502.

4.2 Contractor's Pre-Contract and Pre-Work Deliverables

4.2.1 Before beginning any Work under the Contract, Contractor shall execute the Contract and deliver to the Co-Op the items listed in Sections 4.2.2 below within seven (7) days after the award of the Contract and the Contract must be executed by the Co-Op. Failure to do so will be a material breach of the Contract entitling the Co-Op to terminate the Contract for Cause.

4.2.2 When Contractor delivers the executed Contract to the Co-Op, Contractor shall also deliver to the Co-Op such bonds and certificates of insurance with endorsements in such amounts (and other evidence of insurance requested by the Co-Op) required under Section 11 of these General Conditions, and as the Contract requires.

4.2.3 Government Approvals and Permits. Contractor shall obtain all necessary permits for the Work and pay all applicable fees, unless otherwise noted on the plans and in the specifications. Contractor is specifically notified of the need to obtain traffic control permits from the Arizona Department of Transportation (ADOT) and the necessary environmental permits or file the necessary environmental and regulatory permit notices. Copies of all permits and the associated notices must be provided to the Co-Op prior to starting the permitted activity.

4.3 Pre-Construction Conference

4.3.1 Prior to the commencement of any Work, the Co-Op may schedule a Pre-Construction Conference.

4.3.2 Prior to the Pre-construction Conference, Contractor shall provide the Project Manager with a Schedule of Values reflecting the subcontracts and other categories that will be used to submit Pay Applications for the Work. The total amount of the Schedule of Values shall not be greater than the Contract Price and shall identify Contractor's Contingency, if applicable. The parties acknowledge that a Contractor's Contingency is not applicable to this Project. The Schedule of Values shall be reviewed at the Pre-Construction Conference and revised in response to comments and questions from the Co-Op. Once accepted by the Co-Op in writing, the Schedule of Values for the Project will not be changed without the prior written approval of the Co-Op.

4.4 Performance of the Work (Including Field Measurements, Subcontractors and Suppliers)

4.4.1 Unless otherwise provided in the Contract Documents to be the responsibility of the Co-Op or a separate Contractor, the awarded Contractor shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Contractor to complete the Work consistent with the Contract Documents.

4.4.2 Contractor's Superintendent shall be present at the Site at all times that material Work under this Contract is taking place. Contractor's Superintendent or designee shall be present at the Site at all times any other Work under this Contract is taking place. All elements of the Work shall be under the direct supervision of a foreman or their designated representative on the Site who shall have the authority to take actions required to properly carry out that particular element of the work.

4.4.3 Before ordering materials or doing work, Contractor and each Subcontractor shall verify measurements at the Site and shall be responsible for the correctness of such measurements. No extra charge or compensation will be allowed because of differences between actual dimensions and the dimensions indicated on the Contract Documents, including the drawings.

4.4.4 If Contractor observes error, discrepancies or omissions in the Contract Documents, it shall promptly notify the Contractor and the Co-Op and request clarification. Contractor shall be liable to the Co-Op for damages resulting from error, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions in the Contract Documents. If Contractor, with the exercise of reasonable care, should have recognized such error, inconsistency, omission or difference and fails to report it to the Co-Op, and if Contractor proceeds with the Work affected by such observed errors, discrepancies or omissions, without receiving such clarifications, it does so at its own risk.

4.4.5 In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify all such grades, elevations, locations or dimensions shall be promptly rectified by Contractor without any increase in the Contract Price. Any design errors or omissions noted by Contractor during this review shall be reported promptly to the Co-Op.

4.4.6 Contractor shall be responsible for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the Co-Op and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

4.4.7 Contractor will not substitute or change any Subcontractor or Supplier without the prior written approval of the Co-Op. Any substitute or replacement Subcontractor or Supplier shall be required to meet the same qualifications and selection criteria and process as the original Subcontractor or Supplier. If a Subcontract/Supplier selection plan has been approved by the Co-Op, Contractor will follow that plan unless otherwise approved by the Co-Op in writing. The term "Supplier" shall mean any person or entity providing materials or property for the Project.

4.4.8 Contractor shall not change or replace the Contractor's Project Manager or Superintendent on this project without an explanation for the change being given to the Co-Op, and receiving prior written approval of the change from the Co-Op, which approval will not be unreasonably withheld.

4.4.9 Subcontractors whose scope of work has a value greater than 15% of the total Contract Price may be required to furnish performance and payment bonds to Contractor if directed in writing by the Co-Op.

4.5 Control of the Project Site

4.5.1 Throughout all phases of construction, including suspension of Work, Contractor shall keep the Site reasonably free from debris, trash and construction wastes to permit Contractor to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Prior to Final Acceptance of the Work, or a portion of the Work, Contractor shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit the Co-Op to occupy the Project or a portion of the Project for its intended use

4.5.2 Contractor shall take whatever steps, procedures or means necessary to prevent dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the Co-Op and in accordance with the requirements of the Pima County Department of Environmental Quality (PDEQ) Rules and Regulations.

4.5.3 Contractor shall be responsible to the Co-Op for the acts and omissions of Contractor's employees, Subcontractors and their agents and employees, and any other person performing any of the Work under a Contract with Contractor, or claiming by, through or under Contractor, for all damages, losses, costs and expenses resulting from such acts or omissions.

4.6 Project Safety

4.6.1 Contractor is responsible for safety of the job site for employees of Contractor as well as for members of the general public and others who may drive or walk through or be at the site.

4.6.2 Contractor assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

4.6.3 Contractor shall provide a "competent person" as required by O.S.H.A regulations. The "competent person" shall be identified at the Pre-Construction Conference with the Co-Op advised in writing of any changes.

4.6.4 Contractor and Subcontractors shall comply with all legal and regulatory requirements relating to safety, as well as any Co-Op specific safety requirements set forth in the Contract Documents, provided that such Co-Op specific requirements do not violate any applicable legal and regulatory requirements.

4.6.5 As between the Co-Op and Contractor, Contractor is responsible to the Co-Op for any and all the safety issues relating to the Work on the Project. Contractor shall administer and manage the safety program. This will include but not necessarily be limited to review of the safety programs of each Subcontractor. Contractor shall monitor the establishment and execution of compliance with all applicable regulatory and advisory agency construction safety standards.

4.6.6 Contractor shall maintain and have sole responsibility for safety on the job site.

4.7 Materials Quality, Substitutions and Shop Drawings

4.7.1 Quality Control and Quality Assurance Testing. In addition, all construction materials to be used or incorporated in the Project are subject to inspection, Quality Control &

Quality Assurance Testing, and approval or rejection by the Co-Op. Any material rejected by the Co-Op shall be removed immediately and replaced in an acceptable manner to the Co-Op at no additional cost to the Co-Op. When QC/QA tests indicate noncompliance with the Contract Documents, retesting shall be performed by the same testing laboratory that performed the tests that indicated noncompliance.

4.7.2 Shop Drawings

4.7.2.1 Contractor shall prepare and submit Shop Drawings which show details of all work to ensure proper installation of the Work using those materials and equipment specified under the Approved Plans and Specifications.

4.7.2.2 A schedule of Shop Drawing submissions shall be submitted with the Project Schedule for Co-Op approval that avoids bulk submissions to the extent reasonably possible. Unless otherwise noted, Shop Drawings will not be required for items specified or detailed in the Uniform Standard Specifications and Details or the Technical Specifications. The schedule of Shop Drawing submissions shall include all of the items for which Shop Drawings are required by the Contract Documents, including the Specifications.

4.7.2.3 Shop Drawings shall be numbered consecutively for each specification section and shall accurately and distinctly present the following:

- (a) All working and erection dimensions.
- (b) Arrangements and sectional views.
- (c) Necessary details, including complete information for making connections between work under this Contract and work under other Contracts.
- (d) Kinds of materials and finishes.
- (e) Parts list and description thereof.

4.7.2.4 Contractor shall schedule, prepare and submit all shop drawings in accordance with a time-table that will allow its suppliers and manufacturers sufficient time to fabricate, manufacture, inspect, test and deliver their respective products to the project site in a timely manner so as to not delay the complete performance of the work.

4.7.2.5 The review of Shop Drawings will be general and shall not relieve Contractor of responsibility for the accuracy of such drawings, nor for the proper fitting and construction of the Work, nor for the furnishing of materials or Work required by the Contract. No construction called for by Shop Drawings shall be initiated until such drawings have been reviewed and approved by the Co-Op.

4.7.3 Long Lead Time Items. Contractor shall submit Shop Drawings, as required by the Engineer, on all long lead items to be furnished and installed as part of the project within ten (10) days after execution of the Contract. In addition, Contractor shall order all long lead items to be furnished and installed as part of this Project within (3) days after receiving approved Shop Drawings. For all long lead times for which shop drawings are not required, Contractor shall order said long lead items within fifteen (15) days after execution of the Contract. Within two (2) days after ordering long lead items, Contractor shall supply copies of all purchase orders, along with an accurate delivery schedule from the supplier.

4.8 Project Record Documents

4.8.1 Contractor shall ensure that any and all changes or modifications done as a result of field changes are accurately reflected in red-lined markings. At the completion of construction, all red-lines and markings shall be compiled to aid in the creation of “as-built” plans.

4.9 Warranty and Correction of Defective Work

4.9.1 Contractor warrants to the Co-Op that the construction of the Work shall be of good and workmanlike quality and completed in strict conformance with all applicable laws, rules and regulations and the plans and specifications and all other terms and conditions of the Contract Documents, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

4.9.2 The date of Final Completion shall be the beginning of the Warranty period, irrespective of early completion by some Subcontractors of their work.

4.9.3 Contractor’s warranty obligation shall be in accordance with MAG Specifications.

4.9.4 In addition, unless otherwise specified in the Contract Documents, Contractor and Subcontractors shall provide to the Co-Op all of the following written warranties that apply to the Work, in a form acceptable to the Co-Op.

- (a) General Warranty — Two (2) years.
- (b) Mechanical Contractor — Two (2) years.
- (c) Plumbing Contractor — Two (2) years.
- (d) Electrical Contractor — Two (2) years.
- (e) Caulking — One (1) year.
- (f) Metals- One (1) year.

4.9.5 Nothing in the warranties contained in the Contract Documents are intended to limit any manufacturer’s warranty which provides the Co-Op with greater warranty rights than set forth in this Section or the Contract Documents. Contractor will provide the Co-Op with all manufacturers’ warranties prior to Final Acceptance.

4.9.6. A progress payment, or partial or entire use or occupancy of the Project by the Co-Op, shall not constitute acceptance of Work not in accordance with the Contract Documents.

4.9.7 Without limiting the foregoing or anything in these General Conditions or the Contract to the contrary, Contractor shall obtain and provide to the Co-Op all warranties for any portion of the Project offered by the manufacturer, installer or provider thereof. The Co-Op and the user of the facility shall have the right to the full value and benefit of all such warranties. Contractor will ensure all such warranties are fully transferrable to facilitate the full value of this Section 4.9.

SECTION 5 — Co-Op'S RESPONSIBILITIES

5.1 Co-Op Project Manager. Project Manager is responsible for providing the Co-Op-supplied information and approvals in a timely manner to assist Contractor to fulfill its obligations under the Contract Documents.

5.2 Contractor Services. Co-Op may contract separately with one or more Contractors to provide construction administration of the Project. The Contractor's Contract, as well as other firms hired by the Co-Op shall be furnished to Contractor. Contractor shall not have the right to limit or restrict or reject any Contract modifications that are mutually acceptable to the Co-Op and Contractor.

SECTION 6 — CONTRACT TIME

6.1 Contract Time.

6.1.1 The Contract Time shall start with the Notice to Proceed ("NTP") and end with Final Acceptance, as set forth in Section 6.3 below.

6.1.2 The Notice to proceed shall be issued in accordance with MAG Specifications § 108, and work shall commence no later than ten (10) days after Notice to Proceed.

6.1.3 The Contract Time shall be as set forth in the Project Schedule. Contractor agrees that it will commence performance of the Work and complete the Project within the Contract Time.

6.1.4 Time is of the essence of this Contract, for the Project, for the Work, and for each phase and/or designated Milestone thereof.

6.2 Project Schedule.

6.2.1 The Project Schedule shall be updated and maintained throughout the Contract Time.

6.2.2 The Project Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Contractor of its obligations to complete the Work within the Contract Time, as adjusted in accordance with the Contract Documents. No modification to the Contract Documents or the Contract Time shall be effective unless approved in advance by the Co-Op.

6.2.3 An updated Project Schedule shall be submitted monthly to the Co-Op as part of the Payment Request.

6.2.4 Contractor shall provide the Co-Op with a monthly status report with each Project Schedule detailing the progress of the Work, including: (i) if the Work is proceeding according to schedule, (ii) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (iii) other information detailing items that require resolution so as not to jeopardize the ability to complete the Work in the Contract Time.

6.2.5 Acceptance of a submitted schedule by the Co-Op should in no way be construed as an affirmation or admission that the schedule is reasonable or workable by Contractor. The responsibility for completing the Work on the Project within the Contract Time remains the obligation of Contractor. The Co-Op's review shall not relieve Contractor from compliance with the requirements of the Contract Documents or be construed as relieving Contractor of its complete and exclusive control over the means, methods, sequences and techniques for executing the work.

6.2.6 Critical Path Method (CPM)

6.2.6.1 Unless otherwise specified in the Contract, the Project Schedule shall include a Critical Path Method (CPM) diagram schedule showing the sequence of activities, the interdependence of each activity and identifies the Critical Path.

6.2.6.2 The CPM diagram schedule shall be in calendar Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float Times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.

6.2.7 Float Time

6.2.7.1 The total Float Time within the overall schedule is for the exclusive use of the Co-Op, but the Co-Op may approve Contractor's use of Float as needed to meet contract Milestones and the Project completion date.

6.2.7.2 Contractor shall not be allowed to sequence, hide, or reallocate Float Time through such strategies, as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, tec. No time extensions will be granted nor delay damages paid until a delay occurs which extends the Work beyond the Contract Time.

6.2.7.3 Rain-Related Delays. Contractor is required, in preparing the Project Schedule to take into account all relevant weather conditions, including normal rainfall and distribution. No additional Compensation shall be given for any rain-related delays or impacts on the Work or the Project Schedule. The burden of documenting normal rainfall, the excessive rainfall and the impact on Critical Path activities is on Contractor.

6.3 Final Completion and Final Acceptance

6.3.1 Unless otherwise expressly agreed to in writing by the Co-Op, Final Completion must be obtained by no later than **approximately 240 calendar** days after the date of Notice to Proceed. Failure to timely obtain Final Completion will be a material breach of the Contract.

6.3.2 Upon receipt of written notice that the Work is ready for final inspection and acceptance, the Co-Op and Contractor will jointly inspect to verify that the remaining items of Work have been completed. There shall be no partial acceptance. Final Acceptance shall not be issued, and Final Completion shall not occur until all items of work, including Punch List Items, have been completed to the Co-Op's satisfaction as reflected in the written Final Acceptance.

6.3.3 Final Payment under Section 8.2 below shall not be due, owing, or paid by the Co-Op until Final Completion is obtained.

6.4 Liquidated Damages.

- 6.4.1 Liquidated Damages. Contractor acknowledges and agrees that if Contractor fails to obtain Final Completion of the Work within the Contract Time, the Co-Op will sustain extensive damages and serious loss as a result of such failure. The exact amount of such damages will be extremely difficult to ascertain. Therefore, the Co-Op and Contractor agree that if Contractor fails to achieve Final Completion of the Work within the Contract Time, the Co-Op shall be entitled to retain or recover from Contractor, as liquidated damages and not as a penalty, **\$500.00** per calendar day, commencing from the Completion Date required under the Contract until the actual date of the Final Completion of the work.
- 6.4.2 MAG Liquidated Damages. If no liquidated damages are specified in Sections 6.4.1 above, then the liquidated damages provisions in MAG § 108.9 shall apply.
- 6.4.3 Co-Op may deduct liquidated damages described in this Section 6.4 above from any unpaid amounts then or thereafter due Contractor under this Contract. Any liquidated damages not so deducted from any unpaid amounts due Contractor shall be payable to the Co-Op at the demand of the Co-Op, together with interest from the date of the demand at the highest lawful rate of interest payable by Contractor.
- 6.4.4 Nothing herein shall be deemed to constitute a waiver of any other remedy available to the Co-Op in the event of Contractor's default under this Contract prior to full performance of the Work including, as applicable, specific performance or completion of the Work on behalf of Contractor, the cost and expense of which shall be offset against any monies then or thereafter due to Contractor (if any) and otherwise immediately reimbursed to the Co-Op by Contractor.

SECTION 7 — CONTRACT PRICE

7.1 Fixed Price Contracts. The Contract Price for all Fixed Price Contracts shall be the amount set forth in the Contract.

7.2 Sales Tax. Contractor is required to pay Sales Taxes on any contracting activity done for the Co-Op, and this cost shall be included in all Contract Prices.

SECTION 8 — PAYMENT

8.1 Payment for Construction Services.

8.1.1 Subject to the terms of the Contract Documents, including this Section 8, payment for the Work will be made in accordance with MAG Specifications § 109 as amended below.

8.1.2 In MAG Specifications § 109.7 (A), replace the first paragraph of the subsection with the following:

Co-Op will make monthly progress payments during the course of the Contract. The payments (estimates of work completed) will be prepared by Contractor on AIA Forms G702 and G703 Application and Certificate for Payment, or in a similar format, and approved by Project Manager. The monthly payment cycle will start with the date of the Notice to Proceed. Co-Op may process payments more frequently if requested by Contractor and agreed to in writing by the Co-Op.

8.1.3 Payments shall be made pursuant to A.R.S. § 34-221 and/or § 34-609, as applicable.

8.1.4 When construction of the Project is fifty percent (50%) completed, Contractor may request payment of one-half of the ten percent (10%) retention to be withheld from monthly progress payments, pursuant to A.R.S. § 34-221(C)(3) and/or §34-609(B)(3), subject to all of the Co-Op's rights to withhold or offset payments, and/or other rights of the Co-Op, under the Contract.

8.1.5 Co-Op reserves the right under A.R.S. § 34-221(C)(3) and/or § 34-609(B)(3) to reinstate the ten percent (10%) retention if the Co-Op determines that satisfactory progress is not being made.

8.2 Final Payment. Subject to all of the Co-Op's rights to withhold or offset payment, and other rights under the Contract, Final Payment including remaining retainage shall be paid only after: (i) the Work has been fully completed (including completion of all incorrect or incomplete work items) and the written Final Acceptance has been issued by the Co-Op; (ii) necessary operating manuals, any excess materials and supplies necessary for matching materials and supplies incorporated into the Work, and complete "as-built" drawings (including the Building Information Model, if required by the Contract Documents), plans and specifications have been delivered to the Co-Op; (iii) full and unconditional lien waivers and releases by Contractor and any person performing labor or supplying material, machinery, fixtures, or tools for the Work have been delivered to the Co-Op; (iv) all conditions and requirements imposed by Co-Op or any financing entity for the corresponding disbursement have been met; and (v) Contractor delivers to the Co-Op a Contractor Payment Request Form requesting Final Payment.

8.3 Co-Op's Right to Withhold Payment. Co-Op may withhold payment to such extent as may be necessary in Co-Op's opinion to protect the Co-Op from loss for which Contractor is responsible, including, without limitation:

- i. Defective Work not remedied;
- ii. Third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Co-Op is provided by Contractor;
- iii. Failure of Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- iv. Reasonable evidence that the Work cannot be completed for the unpaid

- balance of the Contract Price;
- v. Damage to the Co-Op or another Contractor or any third party for which the Contractor may have an obligation under Article 12 of the General Conditions;
- vi. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- vii. Persistent failure to carry out the Work in accordance with the Contract Documents.

8.4 Joint/Direct Checks. Payments to Contractor may be made by checks payable jointly to Contractor and its employees, agents, subcontractors and suppliers, or any of them, and when in the sole opinion of the Co-Op it is advisable, payments may be made directly to Contractor's subcontractors and any amount so paid shall be deducted from the amounts owed to Contractor under this Contract.

8.5 Payment Not A Waiver. No payment (nor use or occupancy of the Project by the Co-Op) shall be deemed acceptance or approval of the Work or as a waiver of any claims, rights, or remedies of Co-Op.

8.6 Liens and Bond Claims. Contractor shall make all payments, in the time required, of all labor and materials furnished to Contractor in the course of the Work and shall promptly furnish evidence of such payments as the Co-Op may require. Contractor shall pay when due all claims arising out of performance of the Work covered by this Contract for which a lien may be filed either against the real estate or leasehold interest of the Co-Op, or against payments due from the Co-Op to Contractor, or for which a claim may be made against any payment or performance bond or both. To the fullest extent permitted by law, Contractor agrees that no liens or other claims in the nature of a lien against the real estate, leasehold, or other interest of the Co-Op, against payment due from the Co-Op to Contractor, or against any payment or performance bond, shall be filed or made in connection with the Work by any party who has supplied professional services, labor, materials, machinery, fixtures, tools, or equipment used in or in connection with the performance of this Contract, and Contractor agrees to remove or to cause to be removed any such liens or claims in the nature of a lien or bond claim within ten (10) days upon receiving notice or obtaining actual knowledge of the existence of such liens or claim. In addition, Contractor agrees to defend, indemnify, and hold harmless Co-Op from and against any and all such liens and claims. This paragraph does not apply to claims and liens of Contractor due to non-payment for work performed. The obligations under this Section 8.4 survive termination of this Contract.

8.7 Financial Record Keeping and Co-Op's Audit Right.

8.7.1 Records for all Contracts between the Co-Op and Contractor shall, upon reasonable notice, be open to inspection and subject to audit, scanning, and/or reproduction during normal business working hours. The Co-Op or its designee may conduct such audits or inspections throughout the term of this Contract and for a period of three years after Final Payment or longer if required by law.

8.7.2 Co-Op, its authorized representative, and/or the appropriate agency, reserve the right to audit Contractor's records in compliance with local, state or federal policies, statutes or at the Co-Op's discretion, within three (3) years of Final Acceptance of the Work.

SECTION 9 — CHANGES TO THE CONTRACT

9.1 Extra Work/Changes in the Work.

9.1.1 Co-Op reserves the right to make such changes in the plans and specifications for the Work, as it may deem appropriate and any such change as set forth in a written Change Order or Extra Work Order shall be deemed a part of this Contract as if originally incorporated herein.

9.1.2 Contractor shall not be entitled to payment for additional work unless a written Change Order or Extra Work Order, in form and content prescribed by the Co-Op, has been executed by the Co-Op prior to starting the additional work.

9.1.3 Any agreement which modifies the terms of the Contract (including Change Orders) shall be approved in writing by the Project Manager. Once properly executed by both parties, these modifications to the Contract shall have the same effect as if they had been included in the original Contract.

9.2 Accuracy of Change Order Pricing Information. Signature by the contracting parties shall constitute full accord and satisfaction between the Co-Op and Contractor for all costs, damages, and expenses of whatever kind of nature, including delay, impact or acceleration damages, which may be occasioned by a Change Order or other modification of the Contract, agreed to in writing.

SECTION 10 — SUSPENSION AND TERMINATION

10.1 Suspension. Co-Op may suspend the Contract and/or Contractor's performance in accordance with MAG Specifications § 105.1.

10.2 Termination by the Co-Op for Cause.

10.2.1 MAG Specifications § 108.10 and 108.11 applies to the Contract.

10.3 Termination by Co-Op for Convenience. Co-Op may also terminate the Contract at any time for its convenience upon seven (7) days written notice to Contractor specifying the termination date. In the event of termination which is not the fault, in whole or in part, of Contractor, the Co-Op shall pay to Contractor only such compensation, including reimbursable expenses, due for Work properly performed on the Project prior to the termination date. Upon any termination of the Contract, no further payments shall be due from the Co-Op to Contractor.

10.4 A.R.S. § 38-511 and Other Statutory Requirements. The Contract is subject to, and may be terminated by the Co-Op in accordance with, the provisions of A.R.S. § 38-511. The Parties agree that they are not currently engaged in, and agree that for the duration of the Contract they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35- 393.

10.5 Under no circumstances shall the Co-Op have any liability for any costs, expenses, overhead, or profits in relation to any work not actually performed, or for any future or anticipated profits, recovery, damages, expenses, or loses.

SECTION 11 — INSURANCE AND BONDS

11.1 Insurance Requirements.

11.1.1 Contractor shall obtain, maintain, and provide verification of insurance coverage set forth in the Co-Op's Insurance Requirements, as modified by any applicable Special Provisions, of the Contract.

11.1.2 Co-Op may, in the Contract Documents, designate additional insured(s) along with the Co-Op (and their respective employees, members, representatives, agents and affiliates) on all required insurance policies, and all coverage applicable to the Co-Op under this Section 11.1 and the Insurance Requirements in the Co-Op's Insurance Requirements shall apply to such designated additional insured(s) as well.

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

11.1.4 Subcontractors. Contractor's certificate(s) shall include all Subcontractors as additional insureds under its policies or Contractor shall furnish to the Co-Op separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to the minimum requirements set forth in the Contract Documents, including the Co-Op Insurance Requirements.

11.2 Bonds and Other Performance Security.

11.2.1 Prior to execution of the Contract, Contractor shall provide a Performance Bond and a Payment Bond, each in an amount equal to the full amount of the Contract Price.

11.2.2 Each such bond shall be executed by a surety company or companies holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds.

11.2.3 The bonds shall be made payable and be acceptable to the Co-Op. The bond forms for the performance and payment bonds shall be in the forms required under A.R.S. § 34-221, *et seq.*

11.2.4 All bonds submitted for this project shall be provided by a company which has been rated AM Best rating of B++6 or better for the prior four quarters by the latest edition of the "Results Best's Key Rating Guide (Property/Casualty)" published by the A.M. Best Company.

11.2.5 Personal or individual bonds are not acceptable.

SECTION 12 - INDEMNIFICATION

12.1 To the fullest extent permitted by law, Contractor, its successors and assigns shall defend, indemnify and hold harmless the Co-Op and its agents, representatives, officers,

directors, officials and employees from all demands, proceedings, suits, actions, claims, damages, or losses relating to, arising out of, resulting from or alleged to have resulted from the performance of the Work or failure to comply with Contractor's obligations under the Contract Documents or any laws, regulations, or legal requirements. Contractors' duty to defend, indemnify and hold harmless the Co-Op and its agents, representatives, officers, directors, officials and employees shall arise in connection with all demands, proceedings, suits, actions, claims, workers' compensation claims, unemployment claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) that are attributable to personal or bodily injury, sickness, disease, death or injury to, impairment or destruction of property including loss of use resulting therefrom, caused by any act or omission of Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

12.2 Contractor shall also defend, indemnify and hold harmless the Co-Op, any jurisdiction or agency issuing permits for any work involved in the project and their consultants and each of their directors, officers, officials, employees, representatives, directors and agents from and against all losses, expenses, damages (including damages to the Work itself), attorney's fees and other costs including costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of the Work and all of Contractor's obligations under the Contract. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.

12.3 The indemnified party shall have the right to approve the legal counsel selected by Contractor or the insurer of the liability, which approval shall not be unreasonably withheld.

12.4 The defense, indemnification, hold harmless provisions and Co-Op's Liability Insurance set forth herein shall survive any termination of the Contract.

SECTION 13 — DISPUTE RESOLUTION

13.1 Informal Dispute Resolution. The parties to the Contract agree that time is of the essence in relation to performance of the Contract and completion of the Project, therefore any and all disputes in relation to the Contract will initially be referred to the Co-Op Project Manager and Contractor Project Manager as applicable to the dispute, for immediate resolution. If, after good faith efforts to reach a resolution, none is reached, any party to the dispute may submit the dispute to the Dispute Resolution Representative ("DRR") process set forth below, which is intended to be an expedited process.

13.2 Dispute Resolution Representative (DRR) Process.

13.2.1 The Parties under the Contract agree that all claims and disputes in relation to the Project which are not resolved in the ordinary course of the Project (Claim or Claims) shall, as a prerequisite to any mediation, or litigation of the Claim, first be submitted for resolution between the designated Dispute Resolution Representatives of the Parties as set forth herein (the "DRR Process").

13.2.2 The DRR Process shall be initiated through service of a DRR Notice as set forth below:

- (a) For claims by the Contractor, the DRR Process shall be initiated by

the party asserting the claim serving written notice on the Co-Op setting forth in detail: (i) the basis for the claim; (ii) the effect of the Claim upon the construction of, and/or Project Schedule for, the Project; (iii) the specific relief requested, the amount thereof, and how such was calculated; (iv) the parties involved in the Claim, and how they are involved; (v) the specific contract provisions in the Contract Documents (including, if applicable, drawings and specifications) which apply; and (vi) efforts made to date to resolve the Claim.

(b) For claims by the Co-Op, the DRR process will be initiated by the Co-Op providing written notice to the other parties of the basis and amount of its claim, the parties involved in the Claim, and how they are involved, the provisions in the Contract Documents that apply, and the relief requested.

(c) The DRR Notice shall be hand-delivered and e-mailed to the other parties' designated Dispute Resolution Representatives.

13.2.3 The other parties shall respond in writing to the DRR Notice (DRR Response) within ten (10) calendar days of receipt of the DRR Notice, setting forth those items set forth in the DRR Notice that they agree with, dispute, and/or have questions concerning. The DRR Response shall be hand-delivered and e-mailed to the other parties' Dispute Resolution Representatives.

13.2.4 The designated Dispute Resolution Representatives for the Parties to the claim shall then meet as soon as possible and in any event within twenty (20) calendar days of submission of the DRR Notice (regardless of whether a DRR Response has been submitted by all parties involved in the dispute), at a mutually agreed upon time and place, to attempt to resolve the Claim based upon the DRR Notice and DRR Response.

13.2.5 At any time after the first meeting required above, either party may terminate the DRR Process by written notice to the other party.

13.2.6 The parties may agree, in writing, to extend or modify the time limits or other provisions of the DRR process in relation to a specific pending Claim.

13.2.7 Unless otherwise designated in a written notice to the other parties, the Project Manager and the representatives of the Contractor and of the Design Professional shall act as the parties' designated Dispute Resolution Representatives.

13.2.8 If a resolution of the Claim is reached, that resolution shall be set forth in writing and shall be signed by the Parties' designated Dispute Resolution Representative. If the resolution involves a change in any Contract Documents, the Contract Price, the Project Schedule, or any other change requiring a written Change Order or Amendment, the parties shall execute an appropriate written Change Order or Amendment pursuant to the terms of the Contract Documents.

13.3 Mediation.

13.3.1 Unless extended by written agreement of the parties involved in the dispute, any Claim not resolved through the DRR process set forth above within five (5) calendar days after the meeting required under 13.2.4 above, or after the DRR is terminated pursuant to 13.2.5 above, whichever is earlier, shall be submitted to mediation as a condition precedent to litigation by either party.

13.3.2 The mediation shall be commenced by written demand upon the other party for mediation. If the parties cannot agree upon a mediator within ten (10) calendar days of the written demand, either party may make a request to the Civil Presiding Judge of the Pima County Superior Court to appoint a mediator. The mediation shall occur within forty (40) calendar days of the written demand for mediation, unless the parties agree, in writing, to a longer period of time.

13.3.3 The qualifications for the mediator shall be that they be: (a) an experienced mediator, arbitrator or litigator of construction disputes; and (b) having engaged a significant portion of their time involving and/or resolving construction disputes for at least the past five (5) years.

13.3.4 Each party shall provide to the other party and the mediator all of the information and documentation required under 13.2.2 and 13.2.3 above, together with any additional information and documentation which the party believes relevant. In addition, the parties shall exchange, and provide to the mediator such additional memoranda, information and/or documentation, as the mediator may request, and in the form and at such times, as the mediator may direct.

13.3.5 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Tucson, Arizona, unless another location is mutually agreed upon. Agreements reached in mediation shall be specifically enforceable in any court having jurisdiction thereof.

13.4 Arbitration.

13.4.1 If the mediation is unsuccessful, the parties shall submit the dispute and/or claim to be resolved through binding arbitration conducted according to the then current Construction Industry Arbitration Rules of the AAA, but not administrated or conducted by the AAA, which arbitration shall be held in Pima County, Arizona, utilizing a single arbitrator selected by the parties, unless the parties agree, in writing, to an alternative arbitration procedure.

13.4.2 If: (a) the parties cannot agree on a single arbitrator within two (2) weeks of the demand for arbitration; or (b) the parties at any time prior to the arbitrator being appointed or before the arbitrator has accepted the appointment, cannot agree upon any significant aspect of the arbitration, not already addressed herein, either party may submit the Claim directly to the AAA to select the Arbitrator, and thereafter the arbitration shall be administered by the AAA.

13.4.3 The arbitrator shall be an attorney with at least fifteen (15) years of experience in construction related practice, and whose practice, for at least the last five (5) years, consists of at least 50% construction law.

13.4.4 At the request of either party, the arbitration may include as parties, through joinder, consolidation or otherwise, additional persons or entities involved in the Project, involving claims and/or disputes with common issues and/or facts. The arbitrator shall promptly rule upon any request for joinder or consolidation.

13.4.5 In relation to claims in which the amount in controversy is less than \$250,000, no discovery other than exchange of documents, designation of witnesses and detailed disclosure of claims and defenses (including specifically a detailed basis for calculating

all claims), and no more than 3 depositions and 1 expert per issue per side, shall be allowed, subject to disclosure of such other information as approved by the arbitrator. Otherwise, discovery shall be allowed and/or limited as decided by the arbitrator.

13.4.6 The prevailing party in any arbitration or court proceeding under this Contract shall be entitled to an award of its attorneys' fees, costs, and expenses (including expert witness fees) incurred.

13.4.7 A demand for arbitration shall be made within the time limits specified in the Contract Documents as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.

13.4.8 The Parties agree to participate as a party, by joinder and/or consolidation, in any arbitration, litigation, or other dispute resolution involving as an issue, claim, or defense, any action, inaction, or service provided under this Contract or in relation to the Project or the Work, or any defect or deficiency in the Work.

13.4.9 The party filing a notice of demand for arbitration, or a counterclaim, must assert in the demand or counterclaim all Claims then known to that party on which arbitration is permitted to be demanded.

13.4.10 Any award by the arbitrator shall not include any consequential or punitive damages.

13.4.11 The award entered by the arbitrator shall be a reasoned award.

13.4.12 The award entered by the arbitrator shall be final and judgment may be entered thereon in the Arizona Superior Court.

SECTION 14 — MISCELLANEOUS PROVISIONS

14.1 Assignment. Neither Contractor nor the Co-Op shall, without the written consent of the other assign, transfer or sublet any portion of this Contract or part of the Work or the obligations required by the Contract Documents, any such assignment will be void, will transfer no rights to the purported assignee, and would be a material breach of the Contract.

14.2 Governing Law and Venue. In the performance of the Contract, Contractor shall abide by and conform to any and all laws of the United States, State of Arizona, Pima County, and the Co-Op, including but not limited to federal and state executive orders providing for equal opportunities, the Federal Occupational Safety and Health Act and any other federal, state, county or local laws applicable to the Contract. This Contract shall be governed by and construed in accordance with the substantive laws of the State of Arizona, without reference to conflict of laws and principles. Exclusive jurisdiction and venue for any action brought to enforce or construe any provision of this Contract shall be proper in the Superior Court of Pima County, Arizona and both parties consent to jurisdiction and venue in such court for such purposes.

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

14.4 No Waiver. The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of the Contract Documents or any part thereof, or the right of either party to thereafter enforce each and every provision.

14.5 Project Communications.

14.5.1 All communication concerning the performance of the Work or the Project shall be provided to the designated Project Manager and Contractor's Representative set forth in Article 1 of the Contract.

14.5.2 Project communications may be exchanged by e-mail upon the written agreement of the Project Manager and Contractor Representative, but e-mail communications are not binding upon the Co-Op and cannot change the terms of the Contract or the scope of work or effectuate any change that requires a written change order. The use of e-mails is for information only, and e-mails will have no legal or binding effect.

Bid Submission Checklist

Sierrita Mountain Water Co-Op
10390 S. Sierrita Mountain Road 26
Tucson, AZ 85012

Description: Sierrita Mountain Water Infrastructure Improvements Project

Bidder is responsible for reviewing the solicitation in its entirety and including all required and applicable information. The Co-Op will not assume responsibility for any costs related to the preparation or submission of the bid. This checklist is provided for convenience and should be used as a Cover Sheet for the bid.

The following should be included within the submitted Bid package, as outlined below.

BID PACKAGE	SUBMITTED
Bid – must be signed (Exhibit A)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Bid Schedule (Exhibit B)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Surety (Bid) Bond or Cashier's Check – 10% of Bid (Exhibit C)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Qualifications & Certification Form (Exhibit D)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Contractor Reference List (Exhibit E)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Non-Collusion Certification – must be signed and notarized (Exhibit F)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Subcontractors and Material Suppliers List (Exhibit G)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Subcontractor Certification (Exhibit H)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Certification Regarding Debarment (Exhibit L)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Example Notice of Award (Exhibit M)	<input type="checkbox"/> YES <input type="checkbox"/> NO
ALL Addenda , if applicable, signed and dated	<input type="checkbox"/> YES <input type="checkbox"/> NO

ATTACHMENT 1
Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
Drinking Water Revolving Fund

CONTRACT PACKET for Non-Governmental Borrowers

This packet lists required contract conditions that apply to all Clean Water and Drinking Water Revolving Fund projects and contains forms that must be used in the procurement process. Please review this packet prior to bidding.

PLEASE NOTE

- **This packet, in its entirety, must be physically included in all bidding, solicitation and contract documents.**
- Use of American Iron and Steel (AIS) applies to this project.
 - AIS includes the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- Federal Davis-Bacon prevailing wages apply to this project.
 - Payment of the wages, fringe benefits and overtime rates is required.
 - The proposed DB wage determinations must be submitted to WIFA for approval prior to including the wage determination in any solicitation or contract, etc.
 - The construction category of Heavy (excluding dam construction) should typically be applied to all projects funded by WIFA. If you believe that a different category of wages, such as Building, should be applied to your project or portions of your project, please contact WIFA in advance.
 - The appropriate Federal (Davis-Bacon) Prevailing Wage Decision must be physically incorporated into the bidding and contract documents.
 - Weekly certified payroll submittal is required under the Federal Davis-Bacon laws.
- Compliance with the Civil Rights Act and Equal Employment Opportunity is required.
- Promotion of Small, Minority and Women-owned Businesses and participation in EPA's Disadvantaged Business Enterprise (DBE) Program is required.

Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
Drinking Water Revolving Fund

Required Contract Conditions

This project is being financed in whole or in part by the Water Infrastructure Finance Authority of Arizona through the Clean Water or Drinking Water Revolving Fund. The loan recipient is required to comply with the following federal and state laws, rules and regulations and must ensure that their contractor(s) also comply(ies) with these regulations, laws and rules.

1. (i) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. Sec. 2000d), (ii) the Rehabilitation Act of 1973 (Pub. L. 93-1123, 87 Stat. 355, 29 U.S.C. Sec. 794), (iii) the Age Discrimination Act of 1975 (Pub. L. 94-135 Sec. 303, 89 Stat. 713, 728, 42 U.S.C. Sec. 6102), (iv) Section 13 of the Federal Water Pollution Control Act (Pub. L. 92-500, 33 U.S.C. Sec. 1251), and subsequent regulations, ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap.
2. Equal Employment Opportunity (Executive Order 11246, as amended by Executive Orders 11375 and 12086 and subsequent regulations). Prohibits employment discrimination on the basis of race, color, religion, sex or national origin. Inclusion of the seven clauses in Section 202 of Executive Order 11246 as amended by Executive Orders 11375 and 12086 are required in all project related contracts and subcontracts over \$10,000.
3. (i) Promoting the use of Small, Minority, and Women-owned Businesses (Executive Orders 11625, 12138 and 12432), (ii) Small Businesses Reauthorization & Amendment Act of 1988 (Section 129 of Pub. L. 100-590), (iii) Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Pub. L. 102-389, 42 U.S.C. Sec. 437d), and (iv) Title X of the Clean Air Acts Amendments of 1990 (Pub. L. 101-549, 42 U.S.C. Sec. 7601 note) (“EPA’s 10% statute”). Encourages recipients to award construction, supply and professional service contracts to minority and women’s business enterprises (MBE/WBE) and small businesses and requires recipients to utilize affirmative steps in procurement.
4. Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA) Financial Assistance Agreements (40 C.F.R. Part 33).
5. Debarment and Suspension (Executive Order 12549). Prohibits entering into contracts or sub-contracts with individuals or businesses who are debarred or suspended. Borrowers are required to check the status of all contractors (construction and professional services) and must require contractors to check the status of subcontractors for contracts expected to be equal to or over \$25,000 via this Internet address: <https://beta.SAM.gov>.

**Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
Drinking Water Revolving Fund**

Use of American Iron and Steel

Public Law 113-76, enacted January 17, 2014

SEC. 436. (a)(1) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds (CWSRF and DWSRF) for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency’s capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.

Highlights from EPA Guidance on Use of American Iron and Steel

Complete document available at http://water.epa.gov/grants_funding/aisrequirement.cfm

What is considered American Iron and Steel?

What is an iron or steel product?

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

What is a ‘construction material’ for purposes of the AIS requirement?

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

What is NOT considered American Iron and Steel?

What is NOT considered a ‘construction material’ for purposes of the AIS requirement?

Mechanical and electrical components, equipment and systems are NOT considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system. The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

**Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
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Use of American Iron and Steel - De Minimis Waiver

Every water infrastructure project involves the use of thousands of miscellaneous, generally low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of the project. For many of these incidental components, the country of manufacture and the availability of alternatives is not always readily or reasonably identifiable prior to procurement in the normal course of business; for other incidental components, the country of manufacture may be known but the miscellaneous character in conjunction with the low cost, individually and (in total) as typically procured in bulk, mark them as properly incidental.

Examples of incidental components could include small washers, screws, fasteners (i.e., nuts and bolts), miscellaneous wire, corner bead, ancillary tube, etc.

Example of items that are clearly not incidental include significant process fittings (i.e., tees, elbows, flanges, and brackets), distribution system fittings and valves, force main valves, pipes for sewer collection and/or water distribution, treatment and storage tanks, large structural support structures, etc.

EPA has established a public interest waiver for de minimis incidental components. This action permits the use of products when they occur in de minimis incidental components of such projects.

- Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5% of the total cost of the materials used in and incorporated into a project.
- The cost of an individual item may not exceed 1% of the total cost of the materials used in and incorporated into a project.

Assistance recipients who wish to use this waiver should in consultation with their contractors determine the items to be covered by this waiver and must retain relevant documentation (i.e., invoices) as to those items in their project files.

**Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
Drinking Water Revolving Fund**

Davis-Bacon Contract Conditions (Federal Prevailing Wages)

PLEASE NOTE: Federal Davis-Bacon prevailing wages apply to this project. Payment of the wages, fringe benefits and overtime rates is required.

The “subrecipient” referred to throughout the Davis-Bacon contract conditions is the WIFA Borrower.

“WIFA” is the Water Infrastructure Finance Authority of Arizona, State Capitalization Grant recipient, recipient, or the Authority.

Wage Rate Requirements (Also referred to as Attachment 6)

Preamble

With respect to the Clean Water and Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(3)(ii)(A) below and for compliance as described in Section 5.

Requirements for Subrecipients That Are Not Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities with respect to subrecipients that are not governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. If a State recipient needs guidance, the recipient will contact EPA. The subrecipient may also obtain additional guidance from DOL's web site at <https://www.dol.gov/whd/govcontracts/dbra.htm>.

Under these terms and conditions, the subrecipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis-Bacon prevailing wage requirements.

Davis-Bacon prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a Clean Water Revolving Fund and to any construction project carried out in whole or in part by assistance made available by a Drinking Water Revolving Fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the State recipient before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients must obtain proposed wage determinations for specific localities at www.wdol.gov. After the subrecipient obtains its proposed wage determination, it must submit the wage determination to the recipient for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors.

(b) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime

contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The subrecipient shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination 10 days or less prior to the closing date, the subrecipient may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
- (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument. Typically the appropriate wage determination would be the one in effect on the date the task order, work assignment or similar instrument is awarded.

(d) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract Provisions.

The recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the Clean Water State Revolving Fund (CWSRF) or a construction project under the Drinking Water State Revolving Fund

(DWSRF) financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR § 5.1, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient(s) to the State award official. The State award official will transmit the report to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the

work, all or part of the wages required by the contract, the recipient may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5 (a)(3)(ii) of Regulations the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i) of Regulations and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees—

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire

work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and subrecipient(s), the State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3 above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is

employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3 above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Authority and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use WIFA's interview form, Department of Labor's Standard Form 1445, or equivalent documentation to memorialize the interviews. WIFA's interview form and instructions are included with this packet.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c). The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed below and to the appropriate DOL Wage and Hour District Office listed at www.dol.gov/whd.

Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105

**Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
Drinking Water Revolving Fund**

Equal Employment

Inclusion of these seven clauses (excerpt from Executive Order No. 11246, Section 202 as amended by Executive Order 11375 and 12086) is required in all CWRP and DWRP project related contracts and subcontracts over \$10,000:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and all of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in

Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of Sept. 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Water Infrastructure Finance Authority of Arizona
Clean Water Revolving Fund
Drinking Water Revolving Fund**

Disadvantaged Business Enterprises (DBE)

Good Faith Efforts

Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Certified Disadvantaged Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in numbers 1 through 5 above.

Required Contract Conditions

These conditions must be included in all procurement contracts entered into by the Borrower for all DWRF and CWRF projects:

1. The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.
2. The prime contractor must notify the owner in writing prior to the termination of any Disadvantaged Business Enterprise subcontractor for convenience by the prime contractor.
3. If a Disadvantaged Business Enterprise contractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement contractor.
4. The prime contractor must continue to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

5. The prime contractor must provide EPA Form 6100-2 DBE Program Subcontractor Participation Form** to all of its Disadvantaged Business Enterprise subcontractors. Disadvantaged Business Enterprise subcontractors may send completed Form 6100-2 directly to the Region 9 DBE Coordinator listed below:

Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105

6. The prime contractor must have its Disadvantaged Business Enterprise subcontractors complete EPA Form 6100-3 - DBE Program Subcontractor Performance Form**. The prime contractor must include all completed forms as part of the prime contractor's bid or proposal package to the Borrower.
7. The prime contractor must complete and submit EPA Form 6100-4 DBE Program Subcontractor Utilization Form** as part of the prime contractor's bid or proposal package to the Borrower.
8. A Borrower must ensure that each procurement contract it awards contains the following terms and conditions:

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

** A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.*

*** DBE forms can be downloaded from*
http://www.epa.gov/osbp/dbe_contract_admin.htm

ATTACHMENTS

DBE Forms

http://www.epa.gov/osbp/dbe_contract_admin.htm

6100-2 - DBE Program Subcontractor Participation Form

6100-3 - DBE Program Subcontractor Performance Form

6100-4 - DBE Program Subcontractor Utilization Form

Davis-Bacon Forms

WH-1321 - Davis-Bacon poster

WH-347 - Payroll and certification form

SF1444 - Wage Determination Request form

Employee Interview form

American Iron and Steel

Sample Step Certification Letter (Processed/Manufactured)

Sample Step Certification Letter (Shipped/Provided)