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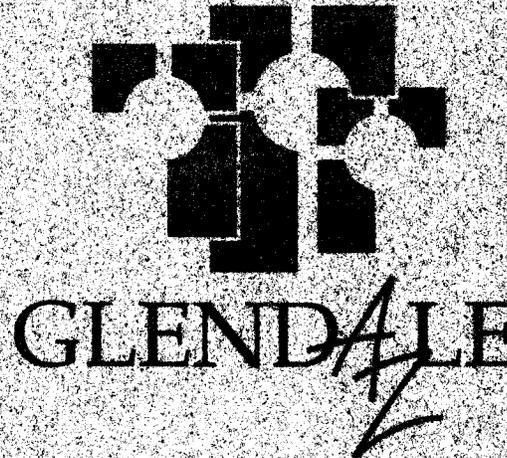
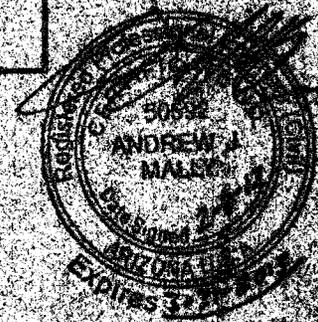
**PROJECT SPECIFICATIONS AND
CONTRACT DOCUMENTS**

PROJECT NO. 091033

**ARROWHEAD RANCH WATER RECLAMATION FACILITY UY
UPGRADE AND WELL 43 VFD INSTALLATION**

MARCH 2012

**THIS PROJECT IS FEDERALLY FUNDED
LABOR STANDARDS APPLY
DAVIS-BACON ACT APPLIES**



CITY OF GLENDALE

ENGINEERING DEPARTMENT

5850 W. Glendale Avenue, Glendale, Arizona 85301 (623) 930-3630

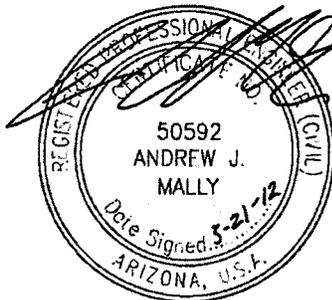


Engineering Department

Memorandum

DATE: March 21, 2012
TO: All Plan and Specification Holders
FROM: Engineering
SUBJECT: PROJECT NO. 091033 – ARROWHEAD RANCH WATER RECLAMATION FACILITY UV UPGRADE AND WELL 43 VFD INSTALLATION

ADDENDUM NO. 2



EXPIRES 3/31/3013

In accordance with the contract documents "Information for Bidders," Page 4, Paragraph 12 CHANGES TO PLANS AND DOCUMENTS, the following revisions to the plans and specifications shall become a part of the contract documents and the bidder shall acknowledge receipt thereof as directed in Paragraph 13 of the Information for Bidders.

Drawings:

1. On sheet CY-3 Contractor shall add a 36" construction valve as shown on sheet CG-5 for isolation of the existing UV basin from the new building on the southwest side of the new 36" wye.
2. On sheet CY-3 note that all piping joints shall be restrained per section 15061.
3. On sheet MU-2, the 4" channel drain INV EL shall be 1220.85 as shown. Eliminate the tie-in to the 36" overflow and revise the 4" pipe installation to run west and discharge into Storage Lagoon No. 3.

Specifications:

1. Specification 01043 MOPO 1.01 shall be revised to include the contractor installation of a 36" construction valve on the southwest side of the new 36" wye. The existing UV influent line shall not be fully demolished until the new UV system has been commissioned.
2. Specification Section 15061 1-1.01 shall be revised so that all pipe, fittings, valves, couplings, pipe supports, bolts and gaskets may be manufactured or purchased from multiple manufacturers.

Addendum #1:

1. The 300' of CPVC pipe called out in Addendum #1 should be 1" in size.

RESPONSE FOR CLARIFICATIONS:

PCL Question Responses:

1. Q: This question is in reference to the MOPO for operation of the CCB during the UV Facility construction phase. Specification 01043 MOPO 1.01 and 1.02 address the tie-in of the new UV Facility into the existing effluent system. The existing CCB effluent 24"/36" piping will need to be demolished for the construction of the new UV Facility. There is no clear direction on how to keep the effluent from the existing CCB to the effluent pump station in operation during the construction phase of the new UV Facility. Can you please clarify?

A: This issue is partially addressed by Addendum #1. The existing UV influent connects to a manhole just downstream of the tie-in for the new 36" WYE. The expectation is that the contractor will install a temporary 36" construction valve to maintain the existing 36" discharge into this manhole and that the piping will not be fully demolished until after the new UV facility is brought online. The effluent piping will need to be temporarily rerouted or provisions for long term bypass pumping will be required.

2. Q: Please provide the plant flows at peak, off peak and potential maximum. This information is required to size the pumps correctly for the anticipated by-pass operations.

A: Peak Q = 6 mgd, Avg Q = 3 mgd, Min Q = 1 mgd

3. Q: What is the anticipated delivery date for the UV system?

A: Currently scheduled for mid-September 2012. There may be an opportunity to adjust the delivery based on the contractor's construction schedule.

4. Q: Contract document sheet EW-1 Note 4 indicates a new concrete equipment pad to be installed and coordinated with shade canopy. Is the canopy owner supplied? Please provide specifications/details so installation costs can be properly estimated.

A: The shade canopy is provided by the Contractor under specification 13122 which is included in the Well 43 volume of the specifications.

MGC Question Responses:

1. Q: Drawing CY-3: On all three sides of the 24" tee (N 4984.56, E 5837.21) and next to the PV there appears to be flexible connection shown. Please clarify if this is a flex connection or note what this is to be?

A: No flexible connection is required.

2. Q: Per the schedule in 02704 all pipe is to be tested at 100psi. All new piping installed is gravity pipe please confirm that the gravity will be tested at 100psi?

A: Confirmed.

3. Q: Please designate which pipe lines need to have joint restraint?

A: All joints shall be restrained.

4. Q: Please confirm that the existing 36" TREF line per construction note 2 is Ductile Iron Pipe?

A: Per as-built plans the existing 36" TREF is DIP upstream of the existing manhole. The downstream connection that feeds the existing junction structure is RCP.

5. Q: Drawing MU-2: The 4" drain line shows an Inv Elev @ 1220.85 this line connects to the new 36" overflow line per CY-3. The 36" overflow Inv Elev is 1222.00 which is higher than the 4". Please clarify these elevations?

A: The elevations should be installed as shown. Delete the tie-in for the 4" drain and route to Lagoon No 3.

6. Q: Also what type of a connection should be used to connect the 4" line to the 36" line?

A: See response to #5.

7. Q: What size pipe should the 300' of CPVC pipe called out in addendum #1 be?

A: 1" per MU-1.

8. Q: Specification Section 15061 1-1.01: Bidding contractors cannot comply with the requirements of this paragraph. Pipe, fittings, valves, couplings, pipe supports, bolts and gaskets are all made by different manufacturers and cannot be purchased from a single manufacturer. We are asking that this requirement be changed in the specifications?

A: The change is acceptable.

THIS ADDENDUM CONSISTS OF THE 3 PAGES

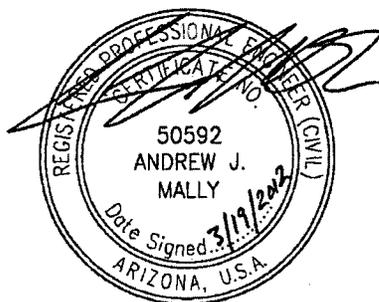


Engineering Department

Memorandum

DATE: March 19, 2012
TO: All Plan and Specification Holders
FROM: Engineering
SUBJECT: PROJECT NO. 091033 – ARROWHEAD RANCH WATER RECLAMATION FACILITY UV UPGRADE AND WELL 43 VFD INSTALLATION

ADDENDUM NO. 1



EXPIRES 3/31/3013

In accordance with the contract documents "Information for Bidders," Page 4, Paragraph 12 CHANGES TO PLANS AND DOCUMENTS, the following revisions to the plans and specifications shall become a part of the contract documents and the bidder shall acknowledge receipt thereof as directed in Paragraph 13 of the Information for Bidders.

Drawings:

1. On sheet CY-3 the 24"x 42" RED on the UV effluent piping is to be located at N4995.06 (~50' from building). On sheet CY3 Remove the word "exist" from note 12. All effluent piping shall be new. New connection at the effluent junction structure shall be link sealed.
2. On sheet CY3, 24" Bypass pipeline replace "24" 45° Bend Down" with "24" 45° Bend Up"
3. On sheet MZ-1 Detail the baffle plate shall be 28" W x 40" H. Plate shall include 192 – 2" openings spaced on 2.125" centers covering the full plate width and the lower 36" height. Lifting eyes shall be as detailed on sheet MZ-1.
4. On sheet EU-1 at the following Note 10: "Contractor shall coordinate security camera JB locations with Owner and Engineer prior to installation of conduit."
5. On sheet IG-4 in the Network Control System Bill of Material, Remove "Unity Software" from the Contractor's scope.

Specifications:

1. In the NOTICE TO CONTRACTORS revise the statement that reads "Bids must be received by....no later than 2:00 pm, March 22, 2012" to read "no later than 2:00 pm, March 29, 2012."
2. Contractor shall include in their bid a quantity of 300' of CPVC piping assumed to be buried at a depth of 3'-0" for use in making modifications to the existing chlor/dechlor system. Final direction on location of installation will be directed in the field.

RESPONSE FOR CLARIFICATIONS:

PCL Question Responses:

1. Q: Sheet CY-3 note 12 indicates that the 24" UV Effluent line ties into the existing 42" Effluent @ INV EL 1219.8+/- . Please confirm the location of this tie-in.

A: The 24"x42" RED is to be located at N4995.06 (~50' from building). On sheet CY3 Remove the word "exist" from note 12. All effluent piping shall be new. New connection at the effluent junction structure shall be link sealed.

2. Q: Please confirm the material of the existing 42" piping in this location.

A: New piping shall be DIP. Exist 42" piping is RCP.

3. Q: Please provide the INV EL of the 24" EFF at the existing CCB structure.

A: Existing 24" Effluent piping is installed at INV EL 1222.41.

4. Q: No coating is specified for the UV concrete channels. Is the intent to leave the channels as bare concrete?

A: Channels shall be bare concrete. No coating is required.

5. Q: Is there a cut-off date for questions?

A: Last opportunity for questions is 5:00 pm on Tuesday, March 20th

MGC Question Responses:

1. Q: Please confirm that flow from the Filters to the Chlorine Contact Basin and to the Effluent Pump Station will need to be maintained at all times until the new UV equipment process is installed and operational. And that bypass pumping operations are required.

A: Existing UV shall stay in continuous operation throughout the construction period and until the new UV system has been proven operational and effective. Bypass pumping or alternative temporary piping shall be required to maintain the UV operation through construction.

2. Q: Is there a duration that can be allowed for the existing Chlorine Contact Basin, Influent and/or Effluent lines to be out of service for the tie-ins?

A: No complete shutdown of influent/effluent piping is allowed during construction. Sections may be taken out of service by bypass only.

3. Q: Drawing CY-3: Per MU-2 the INV EL of the 24" influent line from the 36" x 24" RED to the building is 1213.5 and the 36" OF is 1222.0. The bypass line that connects these two lines shows a 24" 45° bend down. Should this be a bend up?

A: On sheet CY3, 24" Bypass pipeline replace "24" 45° Bend Down" with "24" 45° Bend Up"

4. Q: Drawing CY-3: Should a 6 GV and Valve Box be installed where the new fire supply line ties into the existing PW line.

A: No GV is required.

5. Q: Drawing CY-3: What size is the existing PW line?

A: Exist Potable Water piping is 8"

6. Q: Provide the correct detail for the baffle plate that is to be provided by the Contractor.

A: Baffle plate shall be 28" W x 40" H. Plate shall include 192 - 2" openings spaced on 2.125" centers covering the full plate width and the lower 36" height. Lifting eyes shall be as detailed on sheet MZ-1.

7. Q: Drawing AU-3: The drawing shows the downspout collectors as prefinished SS. Spec section 07620 calls out Kynar, pre-finished and SS. Clarify material requirements.

A: Downspout materials shall be per AU-3.

Hydro Controls, Inc. Question Response:

1. Q: On sheet EW-2 of the Well 43 Plans, Power One-Line Diagram & Schedules, the breaker for new pump is shown as existing and to be reused. There is actually a starter existing in this location, with a breaker. Are we to reuse the existing by bypassing the starter or are we to replace the existing starter with a new breaker?

A: Existing breaker shall be reused.

General Info:

Attention is called to Construction Agreement, Paragraph 3.6 – Warranties. Contractors shall note the contractor warranty period for this project is two (2) years from date of completion.

THIS ADDENDUM CONSISTS OF THE 4 PAGES

PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS

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VICE-MAYOR

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Joyce V. Clark

Yvonne J. Knaack

H. Philip Lieberman

Manuel D. Martinez

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Ed Beasley

CITY CLERK

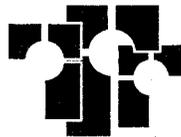
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CITY ENGINEER

Gregory Rodzenko



GLENDALÉ

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EECBG/DOE/ARRA/DAVIS- BACON CONTRACT REQUIREMENTS

UV UPGRADE TECHNICAL SPECIFICATIONS

WELL 43 VFD INSTALLATION TECHNICAL SPECIFICATIONS

NOTICE TO CONTRACTORS

Sealed bids shall be either mailed to the City of Glendale Engineering Department, 5850 West Glendale Avenue, Glendale, Arizona, 85301, or hand-delivered to the Engineering Department office, third floor, 5850 West Glendale Avenue, Glendale, Arizona, for furnishing all plant, material, equipment and labor, and to complete construction of: **PROJECT NO. 091033-ARROWHEAD RANCH WATER RECLAMATION FACILITY UV UPGRADE AND WELL 43 VFD INSTALLATION**. The scope of work includes demolition of the existing chlorine contact basins, removal and relocation of the existing pipeline and conduits, and construction of a new UV disinfection facility including the City pre-purchased UV equipment, a new building, channels and support infrastructure required for an operational facility at the ARWRF, as shown on drawings and specifications. The scope also includes replacement of the existing pump motor and installation of a new motor and VFD and ancillary requirements at the Well 43 pumping site.

Bids must be received by the Engineering Department of the City of Glendale no later than 2:00p.m., March 22, 2012. Any bid received after that time will not be considered and will be returned to the bidder. At that time, the bids will be publicly opened and read aloud in the Engineering Department Conference Room, 5850 West Glendale Avenue, Glendale, Arizona.

A **MANDATORY** pre-bid conference followed by a site visit will be held on March 15, 2012, at 10:00a.m., in the City Hall HR Training Conference Room (basement level), 5850 West Glendale Avenue, Glendale, Arizona. Bidders, contractors, and other interested parties are invited to attend this conference which will be conducted by the Owner and Engineer to answer any questions.

Plans, specifications and contract documents may be examined, and copies may be obtained at City of Glendale Engineering Department, 5850 West Glendale Avenue, Glendale, Arizona. A non-refundable charge of \$75.00 shall be paid for each set of plans and specifications issued from this office.

Each bid shall be in accordance with the plans, specifications and contract documents, and shall be set forth and submitted on the BID DOCUMENTS included with the project specifications book. The BID DOCUMENTS may be removed from the project specifications book and submitted independently of such book. Each bid shall be accompanied by a proposal guarantee, in the form of a certified or cashier's check or bid bond for ten percent (10%) of the amount of bid, made payable to the order of the City of Glendale, Arizona, to insure that the successful bidder will enter into the contract if awarded to him and submit the required Certificate of Insurance, Payment Bond and Performance Bond. All proposal guarantees, except those of the three lowest qualified bidders, will be returned immediately following the opening and checking of proposals. The proposal guarantees of the three lowest qualified bidders will be returned immediately after the contract documents have been executed by the successful bidder. The proposal guarantee shall be declared forfeited as liquidated damages if the successful bidder refuses to enter into said contract or submit the Certificate of Insurance, Payment Bond and Performance Bond after being requested to do so by the City of Glendale, Arizona.

The City of Glendale reserves the right to reject any or all bids or waive any informality or irregularity in a bid. No bidder may withdraw his bid for a period of fifty (50) days after opening and reading of the bids.

The City of Glendale is an equal opportunity employer and minority business enterprises and women's business enterprises are encouraged to submit bids.

CITY OF GLENDALE, ARIZONA

Published: March 1 and 8, 2012
The Glendale Star

INFORMATION FOR BIDDERS

1. **ELIGIBILITY OF CONTRACTORS:** When calling for bids for contracts for public work to be performed on behalf of the State or any political subdivision thereof, which will be paid for from public funds, no bid shall be considered for performance of a contract, including construction work which is not submitted by a bidder duly licensed as a contractor in this State. No bid shall be awarded to any contractor or entity not authorized to do business in the State of Arizona by the Arizona Corporation Commission, as required by statute.

2. **PROPOSAL:** Bids to receive consideration shall be made in accordance with the following instructions:

(a) Before submitting a bid, bidders shall carefully examine the plans and specifications and contract documents, visit the site of the work, fully inform themselves as to all existing conditions and limitations.

(b) Bids shall be submitted on the "PROPOSAL" forms provided and delivered to the City of Glendale Engineering Department on or before the day and hour set in the "NOTICE TO CONTRACTORS," as published. Bids shall be enclosed in a sealed envelope marked on the outside lower right-hand corner indicating:

1. The bidder's name and address.
2. The project number.
3. The title of the project.
4. The time and date the bids are to be received.

(c) It is the sole responsibility of the bidder to see that his bid is received in proper time. Any bids received after the scheduled closing time for receipt of bids will be returned to the bidder unopened.

(d) The signatures of all persons shall be in longhand. Any interlineations, alterations, or erasures must be initialed by the signer of the bid.

(e) Bids shall not contain any recapitulations of the work to be done. No oral, telegraphic, telephonic, or modified proposals will be considered.

3. **BID SECURITY:** Each proposal shall be accompanied by a proposal guarantee in the form of a certified or cashier's check or bid bond, with a properly executed Power of Attorney attached, in an amount equal at least to ten percent (10%) of the proposal payable without condition to the City. If a bid bond is submitted with the bid it shall be issued by a company licensed with the Arizona Department of Insurance and authorized to issue such bonds in this state. **NO BONDS ISSUED BY INDIVIDUAL SURETIES WILL BE ACCEPTED. The company issuing the bid bond shall have a rating of not less than A- in the BEST rating available at the time this project was let to bid.** The proposal guarantee shall guarantee that the bidder, if awarded the contract, will, within ten (10) working days after the award, execute such contract in accordance with the proposal and in manner and form required by the contract documents, and will furnish good and sufficient bond for the faithful performance of the same, a payment bond and a certificate of insurance. The bid securities of the three (3) lowest bidders will be retained until the contract is awarded, or other disposition made thereof. The bid securities of all bidders, except the three (3) lowest, will be returned promptly after the canvass of bids. In the event the Contractor fails, within ten (10)

working days after the award, to execute said Contract and deliver the Performance and Labor and Material Payment Bonds and the Certificate of Insurance, the Bid Security shall become the property of the City.

4. **WITHDRAWAL OF BID:** Any bidder may withdraw his bid, either personally, by telegram or by written request, at any time prior to the scheduled closing time for receipt of bids. No bid may be withdrawn by telephone. Any bid withdrawn will not be opened and will be returned to the bidder. After opening and reading of the bids, no bidder may withdraw his bid for a period of seventy (70) days from the date of opening and reading.

5. **LATE BIDS:** Bids received after the scheduled closing time for receipt of bids, as contained in the "Notice to Contractors," will not be considered and will be returned to the bidder.

6. **AWARD OR REJECTION OF BIDS:** The contract will be awarded to the lowest and best qualified responsive bidder complying with these instructions and with the "NOTICE TO CONTRACTORS." The City of Glendale, Arizona, however, reserves the right to accept or reject any or all bids or to waive any or all informalities or irregularities in the bid. Alternates may be accepted depending upon the availability of City funds. Accepted alternates will be considered in determining the lowest responsive and responsible bidder.

7. **BIDDERS INTERESTED IN MORE THAN ONE BID:** No person, firm or corporation shall be allowed to make, file, or be interested in more than one (1) bid for the same work unless alternate bids are called for in the specifications or any addenda. A person, firm, or corporation who has submitted a sub-proposal to a bidder, or who has quoted prices on materials to a bidder is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders.

8. **CONTRACT AND BONDS:** The form of contract, which the successful bidder as Contractor will be required to execute and the forms of bonds which he shall be required to furnish are included in the contract documents and should be carefully examined by the bidder. The successful bidder shall use the forms provided or such other forms as are acceptable by the City. The Contract and Performance and Labor and Material Payment Bonds will be executed in three (3) original counterparts. All bonds shall be issued by companies licensed with the Arizona Department of Insurance and authorized to issue such bonds in this state. **NO BONDS ISSUED BY INDIVIDUAL SURETIES WILL BE ACCEPTED. The company issuing any bond shall have a rating of not less than A- in the BEST rating available at the time this project was let to bid.**

9. **INSURANCE REQUIREMENTS:** Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described (collectively, "Contractor's Policies"), until each Parties' obligations under this Agreement are completed. Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate. **Contracts in excess of \$250,000 shall require \$2,000,000 single occurrence/\$5,000,000 annual aggregate.**

Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.

This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU

hazards if requested by the City, and a separation of insurance provision.

These limits may be met through a combination of primary and excess liability coverage.

Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.

Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.

Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.

10. SUBCONTRACTORS LISTING AND CERTIFICATION OF CONTRACT COMPLIANCE:

The contractor will be required to furnish the form of subcontractors listing and certification of contract compliance with the executed contract documents. This information is requested for tracking and insurance purposes only.

11. INTERPRETATION OF PLANS AND DOCUMENTS: If any person contemplating a bid for proposed contract is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, or finds discrepancies in or omissions from the plans and specifications, he may submit to the Engineering Department, a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. Questions received less than ninety-six (96) hours before the bid opening time may not be answered. Any interpretation or correction of the documents will be made only by Addendum, duly issued and a copy of such Addendum will be mailed or delivered to each person receiving a set of such documents. The City of Glendale will not be responsible for any other explanations or interpretations of the proposed documents.

12. CHANGES TO PLANS AND DOCUMENTS: Any changes to the plans and documents shall be made only by Addendum. No verbal or other changes to the plans and documents will be valid. A copy of each Addendum will be mailed or delivered as provided in Section 13 below.

13. ADDENDUM: Any addenda will be faxed, mailed or delivered to all who are known by the City to have received a complete set of bid documents, and to offices where bid documents have been filed for review purposes. It is the responsibility of each bidder to ascertain that he has received all addenda issued by telephoning the office identified in the NOTICE TO CONTRACTORS as the location where bid documents are available prior to submitting his bid.

Bidders shall acknowledge all addenda in the appropriate location on the "PROPOSAL" form. Failure to acknowledge receipt of Addenda shall render the bid proposal non-responsive and it will be rejected.

14. ASSIGNMENT OF CONTRACT: No assignment by the Contractor of any contract to be entered into hereunder, or any part thereof, or of funds to be received thereunder by the Contractor, will be recognized by the Owner by the Owner unless such assignment has had prior approval of the Owner, and the Surety has been given due notice of such assignment in writing and has consented

thereto in writing.

15. **PLANS AND SPECIFICATIONS TO SUCCESSFUL BIDDER:** The successful bidder may obtain five (5) sets of plans and specifications for this project from the City.

16. **TIME OF COMPLETION:** The Contractor shall commence work under this project on or before the tenth day following receipt of the Notice to Proceed for that project from the City of Glendale and shall fully complete all work under the project within two hundred seventy (270) consecutive calendar days from and including the date of receipt of such Notice to Proceed or by January 6, 2013, whichever happens first, and completed and ready for final payment on or before March 1, 2013. Time is of the essence in the completion of all work required under this contract. The Contractor shall, at all times, during the continuance of the contract, prosecute the work with such force and equipment as is sufficient to complete all work within the time specified.

17. **CITY OF GLENDALE TRANSACTION PRIVILEGE TAX:** The City of Glendale transaction privilege tax shall **NOT** be waived under the provisions of this contract. The current privilege tax rate can be obtained from the City of Glendale Sales Tax and Licenses Department. The Contractor shall be responsible for reporting and payment of all city, county, state or federal taxes.

18. **MANDATORY PRE-BID CONFERENCE:** A mandatory pre bid conference followed by a site visit will be held on March 15, 2012, at 10:00a.m., in the City Hall HR Training Conference Room (basement level), 5850 West Glendale Avenue, Glendale, Arizona. Bidders, contractors, and other interested parties are invited to attend this conference which will be conducted by the Owner and Engineer to answer any questions.

19. **ALTERNATES:** Alternate proposals will not be considered unless called for in the documents or any addenda thereto. When alternates are requested, all requested alternates or alternate bid items, unless otherwise stated, shall be bid. If no change in the base bid will occur with the alternate, enter "No Change."

20. **APPROVAL OF SUBSTITUTIONS:** The materials, products and equipment described in the Documents and Addenda establish a standard or required function, dimension, appearance and quality to be met by any proposed substitution. No substitute will be considered, before bid opening, unless written request for approval has been received by the City Engineer at least ten (10) working days prior to the scheduled closing time for receipt of bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including any drawings, cuts, performance and test data and any other information necessary for evaluation of the substitute. Bidder shall not be entitled to approval of a substitute.

If a substitute is approved, the approval shall be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

21. **USE OF "EQUALS":** When the specifications for materials, articles, products and equipment state "or equal," contractor may bid upon, and use materials, articles, products and equipment which will perform equally the duties imposed by the general design. The City Engineering Department will have the final approval of all materials, articles, products and equipment proposed to be used as an "equal." It shall not be purchased or installed without the prior written approval from the City Engineering Department.

Approvals for "equals," before bid opening, may be requested in writing to the City Engineering Department for approval. Requests must be received at least ten (10) days prior to the date set for opening the Bid Proposals. The request shall state the name of the material, article, product or equipment for which the item is sought to be considered an equal and a complete description of the proposed equal including any drawings, cuts, performance and test data and any other information necessary for approval of the equal. All approvals will be issued in the form of an addendum.

22. EXAMINATION OF CONTRACT DOCUMENTS AND VISIT SITE: Before submitting a Bid Proposal, bidders should carefully examine the Contract Documents, visit the site of the work, fully inform themselves as to all existing conditions and limitations. No consideration will be granted for any alleged misunderstanding of the material, articles or piece of equipment to be furnished or work to be done. It is understood that the tender of the Bid Proposal carries with it the agreement to all items and conditions referred to herein or indicated in the Contract Documents.

23. BIDDERS IN DEFAULT: No bid will be awarded to any person, firm or corporation that is not authorized by the Arizona Corporation Commission to do business in the State of Arizona, in arrears or is in default to the City of Glendale upon any debt or contract, or that is a defaulter as surety or otherwise upon any obligation to the City of Glendale, or has failed to faithfully perform any previous contract with the City of Glendale.

END OF INFORMATION FOR BIDDERS

PROPOSAL

Place Glendale, AZ

Date March 22, 2012

Proposal of MGC Contractors, Inc., a Corporation organized and existing under the laws of the State of Arizona. a partnership consisting of _____; or an individual trading as _____.

TO THE HONORABLE MAYOR AND COUNCIL
CITY OF GLENDALE
GLENDALE, ARIZONA

Gentlemen:

The undersigned hereby proposes and agrees to furnish any and all required labor, materials, construction equipment, transportation and services for the construction of: **PROJECT 091033 - ARROWHEAD RANCH WATER RECLAMATION FACILITY UV UPGRADE AND WELL 43 VFD INSTALLATION**, in strict conformity with the plans and specifications for the following unit prices:

(Extension of these unit prices on the basis of estimated quantities and the totaling of these extensions are for the purpose of comparing bids only. The mathematics of such extensions and totaling will be checked and corrected by the Engineering Department, before evaluating the bids, and the lowest of such corrected and checked totals will determine the lowest bids.)

LUMP SUM - BID SCHEDULE
PROJECT 091033 - ARROWHEAD RANCH WATER RECLAMATION FACILITY UV UPGRADE AND WELL 43 VFD INSTALLATION

Item No.	Description	Quantity	Unit of Measure	Unit Price	Item Total
1	Price for construction of a new UV Disinfection Building, Installation, Start-up and Commissioning of Owner supplied UV equipment	1	Lump Sum	2,091,871 ⁰⁰	2,091,871 ⁰⁰
2	Price for installation of new motor and VFD at the Well 43 project site including start-up, commissioning and all ancillary requirements	1	Lump Sum	180,000 ⁰⁰	180,000 ⁰⁰
3	Allowance for Construction Contingency	1	Lump Sum	\$450,000.00	\$450,000.00
Total Lump Sum Base Bid (Items 1, 2 and 3)					\$ 2,721,871.⁰⁰

In submitting this Bid, Bidder represents that:

Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and that final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

The basis of bid evaluation, identification of the lowest apparent responsible bidder and award of contract may be made based on the Base Bid total of Items 1 and 2.

Bidder further represents that this Bid is genuine and is not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

Bidder has checked carefully all the above figures and understands that the City of Glendale, Arizona, will not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

Bidder has attended the mandatory pre-bid conference and site visit.

Bidder has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions, and reports and drawings of a Hazardous Environmental Condition, if any, which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid or performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.

Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work indicated in the Bidding Documents.

Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

Upon receipt of notice of the acceptance of this bid, Bidder will execute the formal contract attached within ten (10) days, and will deliver a one hundred percent (100%) Performance Bond for the faithful performance of this Contract, together with a one hundred percent (100%) Payment Bond and Certificate of Insurance.

The bid security attached, with endorsement, in the sum of ten percent (10%) of the total bid, is to become the property of the City of Glendale, Arizona, in the event the Contract and Bonds are not executed within the time set forth, as liquidated damages for the delay and additional work caused thereby.

Bidder shall signify receipt of all Addenda here (if any):

No.	<u>1</u>	Dated	<u>03/19/2012</u>
No.	<u>2</u>	Dated	<u>03/21/2012</u>
No.	<u> </u>	Dated	<u> </u>
No.	<u> </u>	Dated	<u> </u>

No. _____ Dated _____

Failure to acknowledge receipt of all Addenda shall render the bid proposal non-responsive and will be rejected.

Acknowledged by Randy L. Gates Randy L. Gates, President

Bidder Acknowledgement of United States Department of Energy (DOE) and American Recovery and Reinvestment Act of 2009 (ARRA) Contract Requirements

By signing below the bidder acknowledges that they understand that a portion of this project is being funded with monies made available through the United States Department of Energy (DOE) by way of the federal American Recovery and Reinvestment Act of 2009 (ARRA). The bidder represents and warrants that they have reviewed and understand all of the DOE and ARRA special provisions and that they agree to abide by them and that these provisions have been accounted for in the bid price.

Acknowledged by Randy L. Gates Randy L. Gates, President

The undersigned understands that the Mayor and Council of the City of Glendale, Arizona, reserves the right to reject any or all bids or to waive any informalities or irregularities in the bid.

Respectfully submitted,

MGC Contractors, Inc.

Contractor

By Randy L. Gates

Randy L. Gates, President

4110 East Elwood Street Phoenix, AZ 85040
(Complete business address)

Telephone Number: 602-437-5000

Fax Number 602-470-4000

Arizona Contractor's
Classification and
License No.

A-General Engineering

ROC069949

B-01-Commercial Building

ROC071441

CITY CLERK ORIGINAL

CONSTRUCTION AGREEMENT

C-8050
05/22-2012

This Construction Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City"), and MGC Contractors, Inc., an Arizona corporation ("Contractor") as of the 22nd day of May, 2012.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in the **Notice to Contractors** and the attached **Exhibit A** ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project, the plans and specifications, the **Information for Bidders**, and the **Maricopa Association of Governments ("MAG") General and Supplemental Conditions and Provisions**;
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

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

1. Project.

- 1.1 **Scope.** Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.
- 1.2 **Documents.** The following documents are, by this reference, entirely incorporated into this Agreement and attached Exhibits as though fully set forth herein:

- (A) Notice to Contractors;
- (B) Information for Bidders;
- (C) MAG General Conditions, Supplemental General Conditions, Special and Technical Provisions;
- (D) Proposal;
- (E) Bid Bond;
- (F) Payment Bond;
- (G) Performance Bond;
- (H) Certificate of Insurance;
- (I) Appendix; and
- (J) Plans and Addenda thereto.

Should a conflict exist between this Agreement (and its attachments), and any of the incorporated documents as listed above, the provisions of this Agreement shall govern.

1.3 Project Team.

- (A) **Project Manager.** Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- (B) **Project Team.**
 - (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."

(2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

(C) Sub-contractors.

(1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.

(2) Contractor will remain fully responsible for Sub-contractor's services.

(3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.

(4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in **Exhibit A**, the Project shall be completed by no later than within two hundred seventy (270) consecutive calendar days from and including the date of receipt of such Notice to Proceed or by January 6, 2013, whichever happens first.

3. **Contractor's Work.**

3.1 **Standard.** Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Contractor warrants that:

(A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and

(B) Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

(1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.

(2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.

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

3.4 **Coordination; Interaction.**

(A) If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").

(B) Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

(C) If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 **Hazardous Substances.** Contractor is responsible for the appropriate handling, disposal of, and if

necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.

- 3.6 **Warranties.** At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment as satisfaction of the Contractor's warranty under this subsection.
- 3.7 **Bonds.** Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance bonds as required under A.R.S. § 34-608.

4. **Compensation for the Project.**

- 4.1 **Compensation.** Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$2,721,871.00, as specifically detailed in the Contractor's bid and set forth in **Exhibit B** ("Compensation").
- 4.2 **Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.
 - (A) Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
 - (B) Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

5. **Billings and Payment.**

5.1 **Applications.**

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

5.2 **Payment.**

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

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

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

- (D) City will temporarily withhold Compensation amounts as required by A.R.S. 34-221(C).

6. Termination.

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

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

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

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

7. Insurance.

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

- (A) Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively, "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- (B) General Liability.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
 - (4) These limits may be met through a combination of primary and excess liability coverage.
- (C) Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- (D) Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- (E) Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital

equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.

- (F) Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.

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

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

- (I) Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

7.2 Sub-contractors.

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

7.3 Indemnification.

- (A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- (B) This indemnity and hold harmless policy applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

7.4 Waiver of Subrogation. Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

8. Immigration Law Compliance.

- 8.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 8.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 8.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 8.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section 8.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

- 9. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.
- 10. **Prohibitions.** Contractor certifies under A.R.S. §§ 35-391 *et seq.* and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have "scrutinized" business operations, as defined in the preceding statutes, in the countries of Sudan or Iran.
- 11. **Non-Discrimination Policies.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

12. **Notices.**

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

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

12.2 **Representatives.**

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

MGC Contractors, Inc.
Attn: Randy Gates
4110 E. Elwood Street
Phoenix, AZ 85040

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

City of Glendale
Attn: Jayme Chapin
5850 West Glendale Avenue
Glendale, Arizona 85301

With required copies to:

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

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

(C) Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

(D) **Changes.** Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

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

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

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

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

14.2 **Interpretation.**

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

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

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

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

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

14.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together

comprise one instrument.

15. **Dispute Resolution.** Each claim, controversy and dispute ("Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.
16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation
Exhibit C	Dispute Resolution

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

City of Glendale,
an Arizona municipal corporation


By: Ed Beasley
Its: City Manager

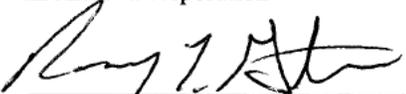
ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

MGC CONTRACTORS, INC.
an Arizona corporation


By: Randy Gates
Its: President

WOMEN-OWNED/MINORITY BUSINESS [] YES [X] NO
CITY OF GLENDALE TRANSACTION PRIVILEGE
FEDERAL TAXPAYER IDENTIFICATION NO. _____



**EXHIBIT A
CONSTRUCTION AGREEMENT**

PROJECT

A. Construction of a new UV disinfection facility including a new building, channels and support infrastructure required for an operational facility at the ARWRF. The City of Glendale has entered into a procurement contract with the UV System Supplier (Trojan Technologies) and has completed the submittal review process. Shop drawings will be provided for use in the construction of the new facility and installation of the UV equipment.

B. Replacement of the existing pump motor and installation of a new motor and VFD and ancillary requirements at the Well 43 pumping site.

**EXHIBIT B
CONSTRUCTION AGREEMENT**

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

By bid, including all services, materials and costs.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$2,721,871.00.

DETAILED PROJECT COMPENSATION

Per page 8 of the Bid Schedule.

**EXHIBIT C
CONSTRUCTION AGREEMENT**

DISPUTE RESOLUTION

1. Disputes.

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

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
- (A) The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
- (B) The arbitrator selected must be an attorney with at least 15 years experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.
4. **Exceptions.**
 - 4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
 - 4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
 - 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

C-8050

**This contract has over 800
additional pages of project
specifications and
construction documents.**

**The entire contract can be
viewed at the**

City Clerk's Office

**5850 W. Glendale Avenue
Glendale Arizona 85301**