



REQUEST FOR PROPOSALS  
FOR  
CONSULTING SERVICES  
FOR THE  
**Eloy Transit Feasibility Study**

**Issued:**

May 10, 2017

**Request for Proposals Due:**

**June 8, 2017 at 2:00 PM**

Sun Corridor Metropolitan Planning Organization  
211 North Florence Street, Suite 103  
Casa Grande, AZ 85122  
520-705-5153 | [www.scmpo.org](http://www.scmpo.org)

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Sun Corridor MPO Title VI Assurances

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Professional Services DBE Provisions

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## 1. NOTIFICATION

Release Date: May 10, 2017

Closing Date: June 8, 2017

The Sun Corridor Metropolitan Planning Organization (MPO) invites qualified firms or individuals to submit proposals to provide consulting services for the preparation of the Eloy Transit Feasibility Study (Study) to the designated managing agency, the Sun Corridor MPO.

Proposals will be received until **2:00 PM** on Thursday, **June 8, 2017**, at the offices of the Sun Corridor MPO located at 211 North Florence Street, Suite 103, Casa Grande, AZ 85122.

Any proposal received after 2:00 PM on the above date will be returned unopened. The Sun Corridor MPO reserves the right to reject any and all proposals and assumes no liability for the costs of preparing a response to this request.

Please note on the outside of the proposal envelope:

### **Proposal for Eloy Transit Feasibility Study**

The outside of the proposal envelope shall also indicate the name and address of respondent and shall be addressed to the Sun Corridor MPO at the aforementioned address.

Issued by:

A handwritten signature in blue ink that reads "Irene Higgs".

Date: May 10, 2017

Irene Higgs, Sun Corridor MPO Executive Director  
520-705-5143  
[ihiggs@scmpo.org](mailto:ihiggs@scmpo.org)



## 2. SUN CORRIDOR MPO BACKGROUND INFORMATION

As a result of the 2010 Census, the City of Casa Grande's population reached 50,000 and was designated a 'small urban area' by federal mandate. In 2013, the Sun Corridor was formed to provide transportation planning services for the designated planning region. The Sun Corridor MPO encompasses a total land area of 1,155 square miles (see the Sun Corridor MPO Planning Boundary Map on the next page). The Sun Corridor MPO provides transportation planning services to the cities of Casa Grande, Coolidge, Eloy, and small urban and rural portions of Pinal County. The population of the Sun Corridor MPO is approximately 120,000.

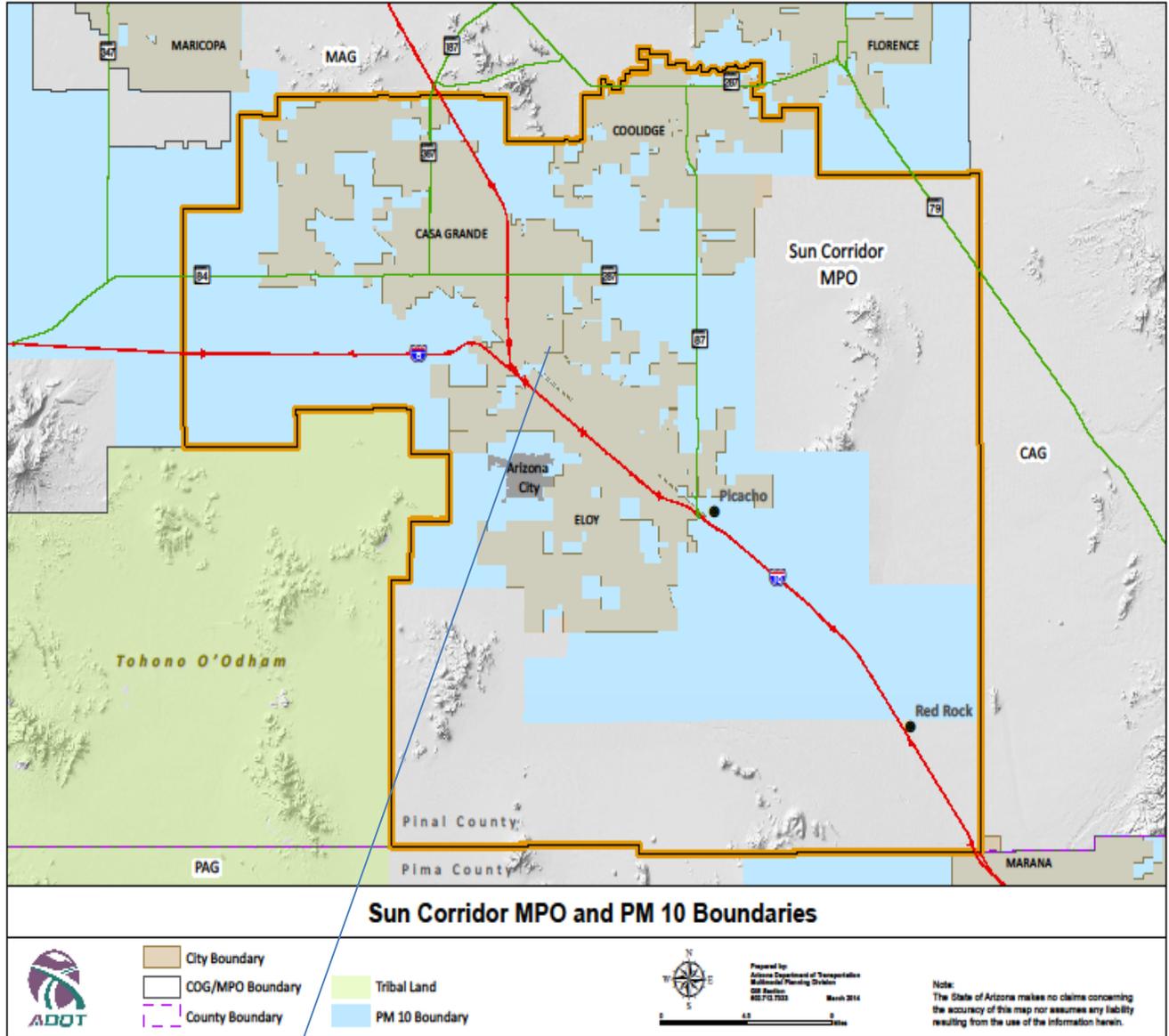
The Sun Corridor MPO has completed a Regional Transportation Plan, a Strategic Transportation Safety Plan, is currently developing a Transit Development Plan for Casa Grande and is now prepared to complete a Transit Feasibility Study for the City of Eloy. Combined, these plans will help determine the needs and priority projects to be implemented within the Sun Corridor MPO planning boundaries as well as Pinal County as a whole.

The Sun Corridor MPO is nestled between two Transportation Management Areas: Maricopa Association of Governments (MAG) and Pima Association of Governments (PAG), along with lands of three Native American Tribes. The Sun Corridor MPO is in a unique position of developing relationships that will enhance the corridor's ability to provide goods, services, and economic development strategies, improve regionally significant roads, plan for regional and local transit systems, and identify transportation needs and improvements along I-8, I-10, the future I-11, and the Union Pacific Railroad.

The transit activities within the Sun Corridor MPO consist of:

- Two (2) Rural Public Transportation Program (5311/5311(f)) in the City of Coolidge – CART and Cotton Express
- Nine (9) identified Enhanced Mobility of Seniors and Individuals with Disabilities (5310) programs.
- Currently, the Central Arizona Governments (CAG) provides the FTA/ADOT required Mobility Management and Coordination activities for the Sun Corridor MPO, which is detailed in the Joint Project Agreement (JPA) between CAG and the Sun Corridor MPO.

## SCMPO PLANNING BOUNDARY MAP



The Sun Corridor MPO provides transportation planning services to the cities of Casa Grande, Coolidge, Eloy, and small urban and rural portions of Pinal County.

The Sun Corridor MPO encompasses 1,155 square miles, and has an estimated population of 120,000.

### 3. INTRODUCTION

The City of Eloy is located 55 miles south of Phoenix and 60 miles northwest of Tucson. Due to its strategic location at the junction of Interstates 8 and 10, (with I-11 and a North to South connector from Apache Junction to I-10 near Picacho being planned for the future as well) and the Union Pacific Railway transcontinental corridor, the City has become a full-service area with manufacturing, retail trade, government and tourist-retail employment. Spurred by affordable land, available water and utilities, and one day or less access to many major metropolitan markets of the southwest, Eloy is experiencing growth of industrial, agricultural, commercial, correctional industry, and service activities in addition to housing. The population of the City of Eloy is 17,787. Projected population at “build-out” for the City is 639,000. The corporate limits of the City of Eloy currently encompass 113 square miles, with a total of 535 square miles within the planning area. In short, Eloy will someday make up a large part of a major metropolitan area, with accompanying challenges to area mobility and transportation infrastructure.

The Sun Corridor MPO requested and was awarded FTA Section 5305 planning funds to conduct a transit development study and prepare a transit feasibility study for the City of Eloy. A previous transit planning study was completed in 2011. The previous study shall be expanded upon to study the potential for and viability of a transit system that can meet the transit demands of the current development of the City of Eloy and provide for future regional connectivity. The transit plan study efforts will also include an innovative public outreach and involvement program that includes the general public, businesses, interest groups, and involved government agencies.

The proposed study area is the current corporate limits of the City of Eloy, with focus on the urbanized areas and connectivity to surrounding cities, including coordination with the 5310 providers, 5311 programs in Coolidge, as well as Transit Plans that the MPO is developing, such as one for the City of Casa Grande.

It is envisioned that the development of this Transit Study will be closely coordinated with the 5311 program in Coolidge and potential 5307 program in Casa Grande.

Over the years, a number of regional transit plans, and transportation plans which included a transit component, have been conducted within the Pinal County area. Some of these studies and plans were funded through ADOT’s Planning Assistance for Rural Areas (PARA) program and its precedent program for Small Area Transportation Studies (SATS). The completed Sun Corridor



MPO Regional Transportation Plan will provide invaluable input to this Transit Plan.

Oversight for the preparation of the Sun Corridor MPO Eloy Transit Feasibility Study will be provided primarily by Sun Corridor MPO staff and the members of a Transit Technical Advisory Committee (TTAC). The two individuals who will be the points of contact for this study are:

- Jason Hafner, Sun Corridor MPO Transportation Planner, Transit Plan Project Manager
- Ken Martin, City of Eloy Public Works Director/City Engineer

Input will also be requested from additional stakeholders that may not be represented on the TTAC, and includes representatives from the Arizona Department of Transportation's Transit Planning section of the Multimodal Planning Division (including Sara Allred, the ADOT Transit Program Manager), regional transit service providers, and other interested parties and groups. A comprehensive stakeholder list will be derived from the Sun Corridor MPO's network of stakeholder groups that have an interest in regional planning, multimodal transportation, and public transportation/transit services.

Sun Corridor MPO's staff and TTAC members will work diligently to ensure that public outreach processes are implemented and followed, and that a wide array of stakeholder groups are notified and involved in the Transit Plan's development. Along with the selected consultant team, the Sun Corridor MPO staff will strive to identify key public transportation/transit stakeholders within the Sun Corridor MPO region. Public input on the Eloy Transit Study will be sought during the Study's development through open meetings, workshops, outreach activities, public involvement programs, and comment forms on member agency websites.

#### **4. PROJECT DESCRIPTION**

This Request for Proposals (RFP) has been initiated to select the most appropriate planning, transit, and/or consulting firm qualified to conduct, prepare, and provide the identified services and deliverable work products for the Eloy Transit Feasibility Study. Interested firms should submit proposals listing their transit planning qualifications, relevant experience, and proposed project team, including subconsultants, to complete the transit plan as described in this Request for Proposals.

The primary deliverable services and work products for the Eloy Transit Feasibility Study shall include the following:

- Project Management
  - Direct the project to an on-time and successful completion
  - Manage the subconsultant team for on-time and successful completion of respective services and products
- Coordination of the Transit Plan development process with:
  - The existing ADOT 5300 transit programs
  - The City of Eloy
  - Sun Corridor MPO
  - City of Casa Grande
  - City of Coolidge (CART)
  - FTA and ADOT
- Public Involvement
  - Public Involvement Plan
  - Public Involvement Summary Reports
- Final Eloy Transit System Implementation Plan, including:
  - Evaluation and assessment of the City of Eloy Transit Needs
  - Development and description of two or three alternatives for a viable transit system for the City of Eloy
  - Estimated costs for operating, administrating, technology, fleet, and other costs associated with a transit system for each of the transit system alternatives
  - Operational and management alternatives
- Final Coordination Plan, including all areas, issues, and providers determined by the City of Eloy and Sun Corridor MPO
- Air Quality Analysis, developed in consultation with MAG, and other regional and regulatory agencies

The professional services provided for this Transit Plan development will include all applicable facets of transit planning level work including but not limited to:

- Scoping, mapping, data collection, MAP-21 and FAST Act Transportation Program requirements; and performance measures
- Scheduling and facilitating public involvement meetings per the Sun Corridor MPO's Public Participation Plan and the customized Public Outreach Plan developed for this Eloy Transit Feasibility Study



- Presentation of draft Transit Plan to the Sun Corridor MPO Technical Advisory Committee; revising the plan based on the input received
- Presentation of the Final Eloy Transit Feasibility Study to the Sun Corridor MPO Executive Board

## 5. SUN CORRIDOR MPO AREA TRANSIT SERVICE PROVIDERS

Below are the identified programs that reside within the MPO planning boundaries. Most programs travel throughout the CAG, PAG, and MAG region, and will also be identified within those plans.

| Organization   | Contact   | Phone  | Address   | email  | Program |
|--|---|--|---|--|---------|
| Achieve Human Services   | Kelly Thomas  | (928) 854-3232                                   | 3151N. Piper Avenue B117, Casa Grande               | <a href="mailto:kthomas@achievehs.org">kthomas@achievehs.org</a>   | 5310    |
| COMET - City of Maricopa   | David Maestas                                       | 520-316-6948<br>520-316-6959                     |   | <a href="mailto:david.maestas@maricopa-az.gov">david.maestas@maricopa-az.gov</a>   | 5311    |
| City of Coolidge - Cotton Express and CART - 5311                                | Mike Meyer  | (520)251-1041                                    | 395 W Palo Verde Ave., Coolidge                     | <a href="mailto:mmeyer@coolidgeaz.com">mmeyer@coolidgeaz.com</a>   | 5311    |
| Community Action Human Resources Agency  | Mary Lou Rosales                                    | 520-466-1112                                     | 109 Sunshine Blvd. Eloy, AZ 85131                   | <a href="mailto:mrosales@CahraPinal.org">mrosales@CahraPinal.org</a>   | 5310    |
| GILA County GEST   | Helene Lopez<br>Dana True                           | (928) 402- 7631<br>ext: 8664                     | 5515 S. Apache Ave. Suite 200, Globe, AZ 85501      | <a href="mailto:hlopez@gilacountyaz.gov">hlopez@gilacountyaz.gov</a><br><a href="mailto:dtrue@gilacountyaz.gov">dtrue@gilacountyaz.gov</a>   | 5310    |
| Gila River Indian Community  | Tim Oliver and<br>Gregory McDowell                  | (520) 562-6304                                   | 291 W Casa Blanca Rd, Sacaton, AZ                   | <a href="mailto:timothy.oliver@gric.nsn.us">timothy.oliver@gric.nsn.us</a><br><a href="mailto:gregory.mcdowell@gric.nsn.us">gregory.mcdowell@gric.nsn.us</a>   | 5310    |
| Horizon Health and Wellness (formerly Mountain Mental Health & Wellness)         | Marsha Ashcroft<br>Vera Salazar                     | (520) 836-1688                                   | 210 E. Cottonwood Ln, Casa Grande AZ 85122          | <a href="mailto:marsha.ashcroft@hhwaz.org">marsha.ashcroft@hhwaz.org</a><br><a href="mailto:vera.salazar@hhwaz.org">vera.salazar@hhwaz.org</a>   | 5310    |
| Payson Multi-Purpose Senior Center Development Center                            | Debbie Stephens<br>Joanne Conlin                    | 928-474-4876                                     | 514 W Main Street, Payson, AZ 85541                 | <a href="mailto:pseniorctr@gmail.com">pseniorctr@gmail.com</a>   | 5310    |
| Pinal County ON-THE-GO-EXPRESS   | Mary Clements                                       | (520) 866-7312                                   | 971 Jason Lopez Circle, Florence AZ 85623           | <a href="mailto:mary.clements@pinalcountyaz.gov">mary.clements@pinalcountyaz.gov</a>   | 5310    |
| PINAL COUNTY - Transportation Planning - no transit other than On-the-go-Express | Kathy Borquez                                       | (520) 866-6406                                   | PO Box 727 Florence AZ 85132                        | <a href="mailto:Kathy.borquez@pinalcountyaz.gov">Kathy.borquez@pinalcountyaz.gov</a>   |         |
| PINAL/GILA Council for Senior Citizens (pay others for HDM, transportation)      | Victor Gomez  | (520) 836-2758                                   | 8969 W. McCartney Rd, Casa Grande AZ 85194          | <a href="mailto:victorg@pgcsc.org">victorg@pgcsc.org</a>   | 5310    |
| Pinal Hispanic Council   | Tanya Cruz  | (520) 466-0921                                   | 519 N. Main Street, Eloy AZ 85131                   | <a href="mailto:TCruz@pinalhispaniccouncil.org">TCruz@pinalhispaniccouncil.org</a>   | 5310    |
| PPEP Encompas Integrated Care  | Kim Huffman   | (520) 808-1616                                   | 901 E. 46th Street, Tucson AZ 85713                 | <a href="mailto:khuffman@ppep.org">khuffman@ppep.org</a>   | 5310    |
| SAN CARLOS APACHE TRIBE - 5311 (Direct buy through FTA region 9)                 | Bernadette Kniffin                                  | (928) 475-5011                                   | PO Box 871 Peridot AZ 85542                         | <a href="mailto:bkniffin@tanf.scot.nsn.gov">bkniffin@tanf.scot.nsn.gov</a>   | 5310    |
| Town of Miami Cobre Valley Community Transit - 5311                              | Richard Cluster                                     | 928-812-1029                                     | 506 W Sullivan St Miami, AZ 85539                   | Richard Cluster<br><a href="mailto:miamitransit@cableone.net">miamitransit@cableone.net</a>  | 5310    |
| THE TOWN OF HAYDEN - PINAL / GILA  | Annie Hinojos                                       | 928-812-1359                                     | Hayden Senior Center at 520 Valasco Ave, Hayden, AZ | <a href="mailto:ahinojos@townofhayden.net">ahinojos@townofhayden.net</a>   | 5310    |
| Town of Kearny   | Anna Flores (Town Manager)                          | 520-363-5547                                     | PO Box 639, Kearny AZ 85137                         | <a href="mailto:aflores@townofkearny.com">aflores@townofkearny.com</a>   | 5310    |
| Florence Senior Center   | Laura Carter (coordinator)                          | 520-868-7926                                     | PO Box 2670, Florence, AZ 85132                     | <a href="mailto:laura.carter@florenceaz.gov">laura.carter@florenceaz.gov</a>   | 5310    |
| TOWN OF SUPERIOR   | Todd Prior (Act TM)<br>Anthony Huerta<br>Dave Neuss | (520) 689-5752<br>(480) 238-8570<br>520-405-2737 |   | <a href="mailto:manager@superioraz.gov">manager@superioraz.gov</a><br><a href="mailto:david.neuss@pinalcountyaz.gov">david.neuss@pinalcountyaz.gov</a><br><a href="mailto:huertaap315@gmail.com">huertaap315@gmail.com</a> | 5310    |
| White Mountain Apache Tribe - 5311 (Direct buy through FTA region 9)             | Tara Chief  | (928) 338-5155                                   | P.O. Box 1710 Whiteriver, AZ 85941                  | <a href="mailto:tarachief@wmat.us">tarachief@wmat.us</a>   | 5310    |

## 6. SCOPE OF WORK

The scope of work includes review and incorporation of, as applicable, any Local or Regional Transit Planning Studies within the MPO boundaries, as well as any that may have an impact on the implementation plan that are outside the MPO planning boundaries within Pinal County. The plan shall, however,



focus on proposed transit service for the City of Eloy. The City of Coolidge operates the Central Arizona Regional Transit (CART) system, providing regional service between Florence, Coolidge, and Casa Grande. It is important that any transit system in the City of Eloy is coordinated with CART.

This Scope of Work is provided as a guide to the type of work anticipated to be involved with this type of transit planning project. Proposers are highly encouraged to offer refinements to this Scope of Work in their proposal, *highlighting the suggested refinements*.

The Eloy Transit Feasibility Study project shall include the following tasks, each of which shall include development and provision of a summary working paper with its overview, key points, findings, and recommendations incorporated into the final report.

### **Task 1 – Project Management and Coordination**

Provide project management and coordination with Sun Corridor MPO staff, the City of Eloy, a Transit Technical Advisory Subcommittee (TTAC), members and all transit stakeholders. The prime consultant shall also manage and coordinate closely with team subconsultants to ensure on time delivery and responsive performance. Upon notice to proceed, the consultant shall develop a refined project scope with input from the Sun Corridor MPO Project Manager and the City of Eloy Project Manager.

The consultant shall also prepare a GANTT type (bar chart) project schedule with study milestones, deliverables, Transit TAC and stakeholder meetings, and key public outreach points.

This task is continuous throughout the length of the Transit Plan development period.

*Deliverable:* The consultant shall prepare and provide to the SCMPO and Eloy Project Managers a Project Management Plan including a refined scope of work and schedule for the Eloy Transit Feasibility Study.

### **Task 2 – Public Involvement**

The consultant shall conduct at least two public meetings at local events (such as Fiestas Patrias) and public open houses in Eloy for the purpose of gathering public information, origin and destination information, willingness to use public transportation, and other useful input. A second public meeting shall be conducted to provide an overview of alternatives. Following these meetings, a public outcome as to which alternative is preferred should be evident and documented.



The consultant shall meet with local businesses, industrial managers, service employers, and groups (e.g. Chamber of Commerce) to gauge interest in a local transit system that could include their potential involvement through incentives to assist employees (and potentially customers) with transit passes and other financial assistance.

The consultant shall also provide a minimum of two informational and educational presentations to elected officials at a scheduled City Council work study session and at a Sun Corridor MPO Executive Board meeting. The first presentation will provide current conditions and needs assessment for transit in Eloy. The second presentation shall include the system alternatives and options for service.

The consultant shall be responsible for:

- Preparation of all presentation and informational materials for the City Council work study session, Sun Corridor MPO Executive Board meeting, general public meetings, and stakeholder meetings.
- Preparation of materials and cost of advertisements and outreach activities.
- Preparation of contact lists, public notices, and documentation of the public involvement process and input received in the plan.

The consultant shall also be responsible for coordinating meetings between the ADOT 5300 transit programs, Sun Corridor MPO, City of Casa Grande, City of Coolidge (CART) and FTA/ADOT and for presentation of Draft and Final Plan to the TTAC, Sun Corridor MPO Transportation Advisory Committee (TAC) and Sun Corridor MPO Executive Board.

The consultant is strongly encouraged to consider the use of social media and innovative internet-based survey and outreach mechanisms and strategies to strengthen outreach efforts to reach a larger audience.

*Deliverable:* The consultant shall prepare and provide a Public Outreach Plan summarizing all planned public outreach events, the processes to be employed for public and stakeholder involvement, and the objectives to be accomplished.

### **Task 3 – Current Transit Conditions and Systems Evaluation**

The consultant shall evaluate current transit systems including the FTA Section 5311 funded Cotton Express and CART System and all 5310 Elderly and Disabled and Human Service programs.

The consultant shall collect, compile and evaluate population, socioeconomic, and other related and pertinent data, and conduct research on the value of a transit system to serve the City of Eloy.

*Deliverable:* Findings and conclusions of the current transit conditions assessment shall be presented in a working paper and shall include maps illustrating existing transportation providers' service areas, including origin, destination, and any fixed route services.

#### **Task 4 – Future Conditions and Multimodal Assessment**

The consultant shall assess future conditions for the next five to ten years, including assessment of public transportation and transit needs based upon projections of:

- Population growth
- 'Aging in Place' of the senior population
- Needs and gaps in public transportation services
- Human service on demand response (5310) programs

A general assessment shall be conducted on other alternative modes of transportation, including current transit, bicycles, and pedestrians.

Previous and current ongoing studies will be utilized and documented for background information and to inform the Eloy Transit Feasibility Study.

*Deliverable:* The findings and conclusions of the future conditions and multimodal assessment shall be documented in a working paper prepared and provided to the Transit TAC.

#### **Task 5 – Short Range Transit Plan Preparation**

The consultant shall prepare a short range Eloy Transit Feasibility Study focusing on services that can be immediately or implemented in the near term (within the next 5 years). The consultant shall identify two or three alternative approaches to address the service areas identified in this task, closely coordinating and consulting with the Transit TAC and the study Project Manager (Jason Hafner) throughout the process. The consultant shall recommend a preferred alternative and provide the justification for the recommendation, including public input on the preferred alternative.

Task Activities shall include:

- A. **Demand Estimation:** The first step will be to gauge the potential patronage of short range transit services. Traditional demand estimation

tools often rely on analysis of socioeconomic data to predict populations most likely to use transit, but this only identifies what is typically referred to as “captive riders”; those who cannot make their trip by private auto due to age, income, or disability. This approach tends to ignore “choice” riders, a growing market share for transit. Choice riders make up a significant portion of overall transit users in the Phoenix metropolitan area. Travel distances and times between major attractors and work areas within Pinal County may make transit an appealing option for an increasing share of the choice rider market.

**B. Key Trip Destinations:** This task includes identification of destination locations sought by both local and regional travelers. Destinations include, but are not limited to:

- Medical centers and hospitals
- Education centers
- Downtown Eloy
- Major retail centers, including the regional shopping mall
- City hall and other public agency service centers
- Senior centers
- Major employment centers not included in the above mentioned locations
- Future planned activity centers expected to generate significant regional traffic
- High density residential areas
- Parks and recreational areas
- Resorts, hotels, and motels

**C. Key Stop Prioritization:** This step will evaluate, prioritize, and rank the universe of trip origins and destinations (some of which are identified above) to those most likely to generate significant transit ridership during the initial years of service.

Future activity centers are included to map their proximity to initial service routes. Future adjustments to the initial transit system shall be considered and discussed to address providing transit system service to the identified future activity centers.

**D. Route Development:** Service routes between the proposed transit served activity centers and transit centers/transfer stations will be

identified, delineated, and routed to minimize mileage and/or transit time. Hours of operation will be considered and recommended, as should the need for and hours of weekend service.

While the initial service network may be limited, it shall be designed considering its future expansion as conditions and transit travel demand dictates.

Route development will also consider environmental justice and Title VI considerations to assure that the needs of minority and low income groups and neighborhoods are considered and served.

The consultant shall identify at least three alternative approaches to address the service areas identified in this task, and, in consultation with the Transit TAC, the City of Eloy, and the Project Manager, recommend a preferred alternative.

- E. **Fare Structure:** A reasonable fare structure will be developed and recommended. Farebox receipts shall be conservatively estimated as part of the overall system costing and identification of funding sources.
- F. **Americans with Disabilities Act (ADA) Accommodations:** There is the potential one of the transit service alternatives will be designed as a deviated fixed route service, with route deviations allowed to accommodate the needs of those with disabilities. Vehicles will be required to be lift-equipped. ADA accessibility shall be part of the investigation and siting of transit stop locations.
- G. **Operator Procurement:** The consultant is to assume that the City of Eloy will solicit and contract with a professional operator to manage and operate the proposed transit system. The transit system operations will include dispatch, transit service, financial management, operator/driver recruitment, employment and training, operations administration, and fleet vehicle maintenance. The consultant will prepare a draft procurement document for the professional management and operations of the proposed transit system for the City of Eloy and Sun Corridor MPO review. The Consultant shall address the comments provided on the draft procurement document to finalize and furnish a final form of the procurement document for use by the City.
- H. **Rolling Stock Assessment:** A cost analysis shall be conducted by the consultant to determine whether the City should acquire rolling stock or if it is more cost effective to place that requirement on the selected

transit system operator. Identify and discuss the advantages and disadvantages for each option. The consultant shall perform an analysis and recommend the approach that is in the best interest of the City and explain why that is the case.

- I. **Safety, Performance Standards, and FTA Compliance:** The consultant shall identify and list various safety measures needed to ensure that the transit service provided by the professional operator will be maintained at a high level of safety for the passengers and other motorists. On time performance, vehicular maintenance measures, and record keeping requirements shall also be outlined, using best practices from similar transit systems in comparable communities. The consultant shall identify and quantify the portion of the cost of the transit service that will be met with FTA funds, and the sources and amounts of funds needed to supplement the FTA funds.

The Eloy transit system routes, infrastructure, operating parameters, and the professional transit operator procurement documents will be designed and prepared to meet all applicable federal transit safety standards.

- J. **Transit Stops:** Transit stop locations along the transit routes will be identified and mapped. Individual transit stop improvements are relatively expensive to construct individually as a stand-alone project, but much more affordable when done as part of a larger construction project for the multiple transit stops that could be needed for the initial transit system infrastructure. The consultant shall develop, as part of this study, a set of recommended transit stop improvements including but not limited to:

- Signage - including schedules and contact information (content, size, location)
- Seating – provisions for shading anywhere a shelter may not be located (size, location, type)
- Bus pullout bays (typical layouts if necessary)

Access routes to transit stops shall be scrutinized to identify evident “architectural barriers” with any needed corrections identified and noted with a mitigating solution. The objective is to provide an ADA compliant access routes to/from the origin and destination points. The transit stops shall be sited in locations that will enable a barrier free design so that those with wheelchairs, walkers, and other mobility aids can safely and conveniently access the transit stop site and transit vehicles. If the initially identified location for a transit stop is determined to be relatively

expensive to be designed and constructed to meet ADA and transit standards, an alternate nearby location shall be identified for the transit stop.

The City of Eloy may adopt the recommended design standards for transit stops developed by the consultant. Future City capital improvement programs can include the design and construction of transit stops and access route ADA improvements as part of major roadway projects and other capital improvement projects. Additionally, as new development and redevelopment occurs, transit stop improvements can be added to the various off-site improvements required of them through developer exactions.

*Deliverable:* The consultant shall prepare and provide a Short Range Transit Plan in accordance with the requirements of this task section including the Task 6 financial analysis information.

### **Task 6 – Financial Analysis**

The consultant shall provide planning level budgetary cost estimates for each of the alternative approaches. The budgetary cost estimates will include operating and capital costs, transit stop improvements, and on-going maintenance costs, reasonable and appropriate administrative oversight costs for the City of Eloy, and all other required costs to implement, operate and maintain the proposed transit system. The budgetary level costs for the preferred alternative will be refined to show projected farebox revenues, anticipated one time and recurring federal and state funding, annual City appropriations, advertising income, and revenues from other potential public and private sources.

*Deliverable:* The findings and conclusions of the financial analysis completed for this task shall be included in the Short Range Transit Plan prepared under Task 5.

### **Task 7 – Long Range Vision**

The consultant shall develop a long range vision for the Eloy transit system based on the work undertaken and completed in the previous tasks. The long range vision for the transit system should include viable alternative service routes and extensions into areas not selected as part of the preferred short range alternative. The consultant shall identify potential service extensions to anticipated major new attractors and developments in the area. These future potential route extensions should be logical extensions of the short range efforts and should include a narrative and a map illustrating the concepts.



*Deliverable:* The consultant shall prepare and provide a working paper outlining and defining the Long Range Vision for a transit system to serve the City of Eloy.

### **Task 8 – Final Implementation Plan**

Develop an implementation plan that identifies all the necessary steps to plan, design, equip, construct needed infrastructure, initiate transit service, carry out the plan, continually evaluate, and provide for future extension of transit service within the City of Eloy and the surrounding area. Information provided shall be in non-technical language whenever possible and the use of tables, graphs, and pictures in lieu of text is highly encouraged.

The written implementation plan shall include, at a minimum, a summary of the research conducted and a survey and discussion of the models that currently exist in rural and small urban areas throughout Arizona and the US (provided they apply to the rural and small urban areas of the Sun Corridor MPO and adjacent Pinal County). The final implementation plan shall also include the pertinent content of the working papers previously developed for the above mentioned tasks.

*Deliverables:* The consultant shall provide a draft final Implementation Plan report for review by the City of Eloy, the Sun Corridor MPO staff and the Transit TAC. Following receipt of comments from the reviewers, a Final Implementation Plan and an Executive Summary shall be developed and submitted to the study's project manager.

The consultant shall provide 5 printed and bound hard copies of the final Implementation Plan and a PDF digital copy and original program files contained on a USB drive.

All materials and data used for this study are the property of the Sun Corridor MPO.

## **7. DBE GOAL (COMMITMENT AND DOCUMENTATION)**

As required by 49 CFR 26.13, the Sun Corridor MPO will not discriminate on the grounds of race, color, sex, national origin, age, disability, limited English proficiency, or low income in the award and performance of any USDOT assisted contract or in the administration of its DBE program or the requirements. The Sun Corridor MPO will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of the contract.



No DBE goal has been set on this Contract. The Consultant ***is encouraged*** to voluntarily obtain DBE participation on this Contract to help ADOT meet its overall DBE goal. See the **Professional Services DBE Provisions** for additional DBE contract requirements.

The Consultant is required to adhere to the commitment made to utilize certified Disadvantaged Business Enterprises (DBE) as indicated in the firm's Request for Proposal or subsequently agreed to by the MPO during negotiations.

Responders to the Request for Proposals are **required to sign and return with their response on the Proposal Certification Form** that are included herein.

Prior to submittal and in compliance with 49 CFR Part 26.11, all contractors and consultants submitting a bid, proposal or statement of qualification to work on a federally funded transportation project to provide ADOT with a list of every firm who expressed interest in or submitted a bid or proposal to work on the project. **Please ensure that prior to submittal for this project that your firm has registered for AZ UTRACS and submitted the Bidder's List to ADOT. NOTE: The awarded firm will be REQUIRED to submit the corresponding Bidder's List email confirmation notice to Sun Corridor MPO.** Failure to provide the notice WILL RESULT in nullification of the firm's selection and Sun Corridor MPO will move onto the next firm in line.

<https://utracs.azdot.gov/Home> ADOT Project # **G1603AZT**

## 8. DOCUMENTATION OF CONSULTANT PROGRESS

The selected consultant shall provide a **monthly email progress report to the SCMPO and City Project Managers.** The reports shall state the work accomplished the preceding month, the work anticipated to be accomplished the next month, any issues that have arisen and how those were or will be resolved, and an update on the progress and adherence to the study schedule.

**A progress report shall also accompany each monthly project billing.** The reports shall include, at a minimum, a statement of work accomplished to date and during the billing period, the budgeted amount for each task, the amount expended by work task, percent completion, the hours expended, cost for the billing period, and the amount spent to date.

## 9. COMPENSATION

The consultant shall provide a price proposal for this study to prepare the Sun Corridor MPO City of Eloy Transit Feasibility Study as part of the response to this Request for Proposal. ***The price proposal shall include a summary table showing the following for each task:***

- The name of each professional assigned and dedicated to this project
- The employee classification (role) for each professional listed
- The estimated hours for each employee classification
- The standard billing rate for each employee classification
- The extended amount total for each task

The price proposal shall show the summation of the professional services and shall also show the estimate for direct project-related expenses. A total project/study cost shall be presented in the summary table.

All work described in the ‘Scope of Work’ shall be completed by the consultant to the satisfaction of the Sun Corridor MPO’s Technical Advisory Committee, the City of Eloy, the Sun Corridor MPO staff, and the Sun Corridor MPO Executive Board.

Progress payments can be made, upon request, following submittal and satisfactory review by the Sun Corridor MPO staff.

## 10. GUIDELINES FOR RFP SUBMITTALS

The RFP respondent shall submit written proposals in compliance with the following requirements:

- Maximum length of 20-pages
- Page limit is for the proposal content only and does not include covers, cover letter, table of contents, dividers, resume appendix, or required form appendix.
- Single-sided standard 8½” x 11” page size
- No other page size is allowed
- 12 Point Font only for text content
- 10 point font minimum for tables, charts, graphs, captions, and team organization chart
- Cover letter shall be limited to one page only and must be signed by a party authorized to bind the entity submitting the proposal.

- Six bound hard copies and an enclosed electronic copy in pdf format (on a CD or USB storage device) of the complete proposal submittal document to be delivered to the Sun Corridor MPO offices no later than the due time and date stated in this RFP.
- The hard bound copy package shall clearly identify it is a **Proposal for the Sun Corridor MPO Eloy Transit Feasibility Study**.
- The electronic PDF file shall not exceed 10mb in file size so it can be emailed to Sun Corridor MPO TAC members .
- Submitted proposals become the property of the Sun Corridor MPO and will not be returned.

## 11. PROPOSAL CONTENT

**IMPORTANT:** Please prepare and organize your proposal in the order outlined below. This will assist the review committee in evaluating your firm’s proposal and qualifications more efficiently.

The following items **must be included** in each proposal to be considered complete and responsive. The consultant should respond to each of these items in the order listed below. To facilitate the evaluation of each proposal, potential consultants submitting a proposal are required to adhere to the following format:

1. **Cover Letter** – One page cover letter shall be attached as a part of the proposal summarizing the key points made in the proposal, with contact information for the submitting party, and signed by an authorized representative authorized to bind the entity submitting the proposal.
2. **Introduction** – Provide a brief review of the study team makeup and a summary of the team’s specific qualifications and experience in preparing transit development plans.

Outline and discuss your general project approach, project management methodologies, and quality control plan.

3. **Scope of Work** – Address how your team proposes to accomplish the individual tasks of the scope of work contained in this RFP.

The scope of work presented in your proposal shall be a ‘refined’ scope of work incorporating any changes, additions, or modifications to the scope of work presented in this RFP deemed beneficial to the project by the consultant. The consultant shall highlight any changes made to the

scope and explain why the change was made and how it will benefit the overall transit plan. The reviewer should be able to readily see and understand the refined scope being presented by the consultant.

4. **Project Personnel** – Provide an organization chart identifying all key personnel who will actually lead and conduct the transit study for the Sun Corridor MPO. Include names of all key project personnel and names of subconsultant personnel, all individuals who are assigned and dedicated to this study. For each person, include a job title (role), duties, responsibilities, and a brief summary of qualifications and relevant experience in transit studies of this type.
5. **Experience and References** – Provide a description of at least three (3) previous transit planning projects similar in nature to the services requested. For each project, provide the:
  - Project title
  - Timing (start date, end date, duration)
  - Contract amount (original and final amounts with an explanation of the difference)
  - Sponsoring agency
  - Agency project manager (name and current contract phone number and email address)
  - Roles of individuals assigned to this project on the cited reference project
6. **Project Schedule** – Provide a Gantt style timetable for accomplishing the tasks outlined in the proposed scope of work. Assume the notice to proceed per the procurement timeline provided below. Show the approximate dates for TTAC meetings, stakeholder meetings, public outreach meetings, implementation plan presentations to the City Council and Executive Board, and other needed meetings.

The Sun Corridor MPO would like the Eloy Transit Feasibility Study to be completed in whole within 12 months from the date of the Notice to Proceed. The consultant's schedule should reflect this timeline. The consultant may propose an alternate schedule period if deemed necessary to deliver a better transit plan for the City. The alternate schedule should be accompanied by a justification for the same.

7. **Project Budget** – Provide a standard line item budget that is structured to address the time budgeted for each of the tasks identified in the scope

of work. At a minimum, the budget must show project personnel, job title (role), estimated hours of work, hourly charge rates, total amounts for each task, a total amount for the professional services fee, budgeted amount for direct expenses, budgeted amount for services provided by each subconsultant, and total amount for completing and providing the Sun Corridor MPO Eloy Transit Feasibility Study. Direct expenses may include, but are not limited to, travel/mileage, telecommunications, postage, deliveries, printing, reproduction costs, etc. In a separate section, of the fee proposal, provide the same information for each subconsultant to be employed to help the prime complete the work to prepare and provide the transit plan.

8. **Availability** – List any and all present activities and job commitments for each key person. Include an estimation of available time each key person can commit to working on this project and completing the work tasks described herein.

The consultant must get approval from the Sun Corridor MPO for any change in key personnel assigned to this project for any reason. Changing of key personnel may give rise to termination of the consultant contract depending on the nature and number of changes in key personnel at the sole discretion of the Sun Corridor MPO TAC.

NOTE: THE PROPOSAL RESPONSE FOR SECTIONS 2 THROUGH 8 ABOVE IS SUBJECT TO THE 20-PAGE LIMIT SPECIFIED IN THE GUIDELINES ABOVE.

#### 9. **Appendix 1 – Resumes**

Resumes for each key team member identified in the organization chart may be included in an appendix to the proposal document at the consultant's option. If resumes are provided, each resume shall not exceed one single-sided page in length.

#### 10. **Appendix 2 – Required Forms**

Forms required to be completed and provided with the consultant's proposal shall be contained in an appendix to the proposal. **Failure to sign and submit the required form with the Proposal will result in the Proposal being rejected.** Required forms to include in this appendix include:

- ***Request for Proposal Certification Form***



## 12. GENERAL PROVISIONS

**Withdrawal of Proposals** – Proposals may be withdrawn by written notice received at any time prior to the award.

**Late Proposals** – Any proposal received after the time specified above will not be considered.

**Proposal Preparation Costs** – All costs incurred for the proposal preparation, presentation, or contract negotiations are the responsibility of the consulting firm. Sun Corridor MPO will not pay for any information solicited or received.

**Funding** – Sun Corridor MPO is a designated Metropolitan Planning Organization (MPO) for the Sun Corridor Arizona Urbanized Area, and has elected to utilize FTA 5305 planning funds. In support of the plan, the City of Eloy will provide the local government match in the form of In Kind, or if necessary a cash match.

**Budget** – The maximum budget for this proposal is \$80,000.

## 13. PROPOSAL EVALUATION CRITERIA

Proposals for this project will be evaluated by a Consultant Selection Committee appointed by the Sun Corridor TAC according to the following proposal evaluation criteria, with the weighting of each criterion as indicated:

|    |   |     |
|----|---|-----|
| 1. | Project understanding and approach  | 35  |
| 2. | Clarity of proposal, technical soundness, and enhancements to scope of work elements outlined in this Request for Proposals | 25  |
| 3. | Experience and qualifications of the team in development of similar transit plans   | 15  |
| 4. | Experience and qualifications of the key personnel on the team  | 15  |
| 5. | Proposed schedule and budget  | 10  |
|    | Total Points  | 100 |

A Consultant Selection Committee will evaluate submitting firm proposals and qualifications to select the best firm to undertake the study and completion of the Eloy Transit Feasibility Study. The Consultant Selection Committee may select a consultant directly from the review and ranking of the proposals if there is a clear cut best firm/team. The Consultant Selection Committee may

also choose to interview a maximum of three (3) of the submitting firms determined to be the most qualified of all the submittals.

## 14. INTERVIEW EVALUATION CRITERIA

After evaluation of the Proposals, a shortlist of a maximum of three firms may be identified based upon the composite score of the Consultant Selection Committee members. If necessary, a presentation/interview session with each of the short listed firms will comprise the second half of the consultant evaluation and selection process. In the presentation/interview, shortlisted firms will be required to demonstrate understanding and familiarity with the nature, scope, locations, key issues, innovative concepts, and other aspects of this project. Criteria upon which the presentation/interview of each firm will be evaluated and scored, with weighting for each criterion are as follows:

|    |   |     |
|----|---|-----|
| 1. | Observations on existing conditions and key project information   | 20  |
| 2. | Identification of key issues or problems that will need to be considered and any initial thoughts on the resolution process | 25  |
| 3. | Innovative approaches and concepts  | 25  |
| 4. | Experience and capabilities in development of similar studies of both the key personnel and the project team                | 20  |
| 5. | Specific reasons why the firm should be selected for the project  | 10  |
|    | Total Points  | 100 |

The Consultant Selection Committee members will individually evaluate the presentation/interview of each of the candidate firms and rate them accordingly to the aforementioned criteria. The Consultant Selection Committee will then agree upon a consensus ranking, and the Sun Corridor MPO Executive Director will notify each interviewed firm of their individual ranking, score, and top ranked firm's score. The Sun Corridor MPO Executive Director shall then schedule a meeting with the top ranked firm for the purpose of finalizing the scope and negotiating a contract.

If negotiations are unsuccessful, the Sun Corridor MPO staff will terminate negotiation efforts with the top ranked firm and open negotiations with the 2<sup>nd</sup> ranked firm. This process will continue until negotiations are successful. The shortlist will remain in effect for a period of twelve months from the date of issuance by Sun Corridor MPO.



Once a contract has been successfully negotiated with a firm, the contract will be required to be approved by the Sun Corridor MPO TAC, Sun Corridor MPO Attorney, and Sun Corridor MPO Executive Board. Federal language is required to be in all Sun Corridor MPO contracts and professional services agreements. The federal terms and provisions will be provided to the accepted and awarded firm.

## 15. PROCUREMENT TIMELINE

|                    |   |
|--------------------|---|
| May 10, 2017       | RFP Advertised  |
| June 8, 2017       | Proposals Due Date – by 2:00 PM   |
| June 28, 2017      | Consultant Selection Committee reviews proposals and ranks top firms for presentations/interviews |
| July 19, 2017      | Consultant Presentations/Interviews <b>(optional)</b>   |
| July 20, 2017      | Notification to Firm Selected   |
| August 24, 2017    | Selected Firm Approved by TAC   |
| September 12, 2017 | Selected Firm Approved by EB  |
| October 26, 2017   | Professional Service Agreement Approved by TAC  |
| November 14, 2017  | Professional Service Agreement Approved by EB   |
| November 15, 2017  | Notice to Proceed Issued  |

The Sun Corridor MPO reserves the right to reject any or all proposals and to make any award which it considers to be in the best interest of the region. This Request is for a Request for Proposals is not a commitment to initiate a contract for services.

## 16. QUESTIONS CONCERNING THE RFP

Written questions regarding this RFP should be mailed or emailed to the Sun Corridor MPO and must be received no later than **10 calendar days** prior to the proposal submittal due date. Questions may then be responded to by written amendment to this document so that all proposers have the same information. Verbal statements or instructions shall not constitute an amendment to this RFP.



Inquiries shall be made to:  
Jason Hafner, Transportation Planner, Sun Corridor MPO  
211 North Florence Street, Suite 103  
Casa Grande, Arizona 85122  
Email: [jhafner@scmpo.org](mailto:jhafner@scmpo.org)  
(520) 705-5153

## **17. FEDERAL THIRD PARTY AGREEMENTS**

### **APPLICABLE LAWS AND REGULATIONS**

#### **1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES**

The Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Consultant or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Consultant agrees to include the above clause in each subconsultant agreement. It is further agreed that the clause shall not be modified, except to identify the subconsultant who will be subject to its provisions.

#### **2. FRAUD AND FALSE STATEMENTS**

The Consultant understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Consultant represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Consultant and any company that the Consultant represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

#### **3. ACCESS TO THIRD PARTY CONTRACT RECORDS**

Pursuant to A.R.S. §35-214, the Consultant and its Subconsultant(s) shall keep and maintain all books, papers, records, accounting records, files, accounts, expenditure records, reports, cost proposals with backup data and all other such materials related to the Contract and other related project(s). The Consultant shall make all such materials related to the project(s) available at any reasonable time and place during the term of the Contract and for five (5) years. All Documents shall be retained for auditing, inspection and copying upon the Sun Corridor MPO or at FHWA's request, or any other authorized representative of the Federal Government.

#### 4. **CHANGES TO FEDERAL REQUIREMENTS**

The Consultant shall at all times comply with all applicable Federal regulations, policies, procedures, and directives, including without limitation those listed directly or by reference between the MPO and the Federal agency providing funding for this contract, as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.

Changes to Contract Scope: Federal legislation and implementing regulations allow for change orders within the scope of the work covered by the contract. In the event of changed conditions, an adjustment of contract scope is permissible if the altered character of the work does not differ materially from that of the original contract as long as the work is approved by the Sun Corridor MPO with the requirement that the change must involve the work covered by the contract. Changes that materially differ from the scope of work are considered Cardinal Changes and are not permissible. All work changes must be reviewed by the Sun Corridor MPO, ADOT Contracts Program Manager, and/or ADOT Procurement Officer in advance of proceeding to ensure the change is permissible under State and Federal requirements and regulations. Work cannot proceed until appropriate financial and administrative processing has occurred and any federal approvals are received when and where necessary and a modified contract is issued.

#### 5. **TERMINATION**

**a. Termination for Convenience:** The Sun Corridor MPO reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Consultant shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subconsultants to immediately cease such work. As compensation in full for services performed to the date

of such termination, the Consultant shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the Consultant and Sun Corridor MPO, based on the agreed Scope of Work actually completed by the Consultant.

**b. Termination for Cause:** The MPO may terminate this Agreement for Cause ***upon the occurrence of any one or more of the following events:***

- 1) If Consultant fails to perform pursuant to the terms of this Agreement;
- 2) If Consultant is adjudged to be bankrupt or insolvent;
- 3) If Consultant makes a general assignment for the benefit of creditors;
- 4) If a trustee or receiver is appointed for Consultant or for any of Consultant's property;
- 5) If Consultant files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
- 6) If Consultant disregards laws, ordinances, rules, regulations, or orders of any public body having jurisdiction;
- 7) Where Agreement has been so terminated by the Sun Corridor MPO, the termination shall not affect any rights of the Sun Corridor MPO against Consultant then existing or which may thereafter accrue.

**c. Termination for Misrepresentation:** The Sun Corridor MPO may, upon written notice, terminate this Contract for any attempt by Consultant to represent any goods or materials not specifically awarded as being under contract with the Sun Corridor MPO. Any such action is subject to the legal and contractual remedies available to the Sun Corridor MPO inclusive of, but not limited to, contract cancellation, suspension and/or debarment of Consultant.

## **6. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

The Consultant is required to comply with Title VI of the Civil Rights Act of 1964, as amended. Accordingly, Title 49, Code of Federal Regulations, Part 26 through Appendix H and Title 23, CFR 710.405 (b) are made applicable by reference and are hereinafter considered a part of this contract. The Consultant is required to comply with the provisions of Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41-CFR Part 60). Said provisions are made applicable by reference and are hereinafter considered a part of this contract.

## **7. DISADVANTAGE BUSINESS ENTERPRISE (DBE)**



The Consultant and Subconsultants are required to comply with all Disadvantaged Business Enterprise (DBE) requirements as part of the Arizona Department of Transportation Disadvantage Business Enterprise Plan.

#### **8. *DEBARMENT AND SUSPENSION***

Consultant shall not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension".

#### **9. *LOBBYING***

The Consultant agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress, in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

#### **10. *ENVIRONMENTAL PROTECTION***

The Consultant is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement (EN-329).

#### **11. *ENERGY CONSERVATION***

The Consultant is required to comply with mandatory standards and policies, as applicable, relating to energy efficiency, which is contained in the State Energy Conservation Plan issued by the Department in compliance with the Energy Policy Conservation Act (Public Law. 94-163).

#### **12. *DRUG-FREE WORK PLACE***

The Consultant agrees that it will comply with the provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, subtitle D; U.S.C. § 701 et seq.) and maintain a drug-free work place.

### 13. **INSURANCE**

Consultant shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from, or in conjunction with, the performance of the work hereunder by the Consultant, its agent's representatives or employees.

### 18. **CERTIFICATION FORMS**

Responders to this Request for Proposals **are required to sign and return with their response the "Request for Proposal Certifications Form"** that are included herein.

***Failure to sign and submit the certification form specified in this RFP with the RFP will result in the RFP being rejected.***

- **Request for Proposal Certifications Form**



## Request for Proposal Certifications Form

Contact #: SCMPO 2017-01      Consultant Name: \_\_\_\_\_

**Please read the sixteen statements below. The statements are to ensure Consultants are aware and in agreement with Federal, and State guidelines related to the award of this contract. Consultants shall submit this Certification Form attached to each Proposal for each RFP advertised, as revisions to the form may occur from time to time. Failure to sign and submit the certification form specified in this RFP with the Proposal will result in the Proposal being rejected.**

**Submission of the Proposal by the Consultant certifies that to the best of its knowledge:**

|           |   |
|-----------|---|
| <b>1.</b> | The Consultant and its subconsultants have not engaged in collusion with respect to the contract under consideration.   |
| <b>2.</b> | The Consultant, its principals and subconsultants, have not been suspended or debarred from doing business with any government entity.  |
| <b>3.</b> | The Consultant shall have the proper Arizona license(s) and registration(s) for services to be performed under this contract. Furthermore, the Consultant shall ensure that all Subconsultants have the proper Arizona license(s) and registration(s) for their services to be performed under this contract. Key members of the Project Team, including subconsultants, are currently licensed to provide the required services as requested in the RFP package. |
| <b>4.</b> | The Consultant’s signature on any RFP or contract constitutes an authorization to the Sun Corridor MPO to ascertain the eligibility of the Consultant, its principals and sub-consultants, to enter into contract with the Sun Corridor MPO and with any other governmental agency.   |
| <b>5.</b> | The Consultant’s Project Team members are employed by the Consultant on the date of submittal.  |
| <b>6.</b> | All information and statements written in the proposal are true and accurate and that the Sun Corridor MPO reserves the right to investigate, as deemed appropriate, to verify the information contained in proposals.  |

|            |  |
|------------|--|
| <b>7.</b>  | Consultant shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from, or in conjunction with, the performance of the work hereunder by the Consultant, its agents, representatives, or employees.   |
| <b>8.</b>  | No Federally appropriated funds have been paid or shall be paid, by or on behalf of the Consultant, for the purpose of lobbying.   |
| <b>9.</b>  | If the project is funded in whole or in part with Federal Aid funds, the Consultant affirmatively ensures that in any subcontract entered into pursuant to this advertisement, minority business enterprises shall be afforded full opportunity to submit proposals/bids in response to this invitation and shall not be discriminated against on the grounds of race, color, national origin, age, sex, disability, limited English proficiency, or low-income status in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation. |
| <b>10.</b> | The Consultant will utilize all Project Team members, subconsultants, and DBE firms, if applicable, submitted in the RFP, and will not add other Project Team members or subconsultants, unless the Consultant has received prior written approval from Sun Corridor MPO Director.   |
| <b>11.</b> | The Consultant shall meet its DBE goal commitment and any other DBE commitments as stated in its RFP Proposal or Cost Proposal; and shall report on a timely basis its DBE utilization as detailed in the contract.  |
| <b>12.</b> | If selected, the Consultant is committed to satisfactorily carry out the Consultant's commitments as detailed in the contract and its RFP proposal.  |
| <b>13.</b> | The Consultant is required to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368).   |
| <b>14.</b> | The Consultant is required to comply with mandatory standards and policies, as applicable, relating to energy efficiency.  |



|     |  |
|-----|--|
| 15. | The Consultant agrees that it will comply with the provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, subtitle D; U.S.C. § 701 et seq.) and maintain a drug-free work place  |
| 16. | In Compliance with 49 CFR Part 26.11, The Consultant is required to register with the AZ UTRACS web portal and complete the Online Bidder's List. <b>Please note:</b> any firm being awarded work as a prime or sub consultant on a federally funded project must be AZ UTRACS registered and if selected will be required to submit the corresponding Bidder's List email confirmation notice to Sun Corridor MPO. Please use ADOT Project #G1603AZT. |

*I hereby certify that I have read and agree to adhere to the sixteen statements above and that the statements are true to the best of my knowledge as a condition of award of this contract.*

*Print Name and Title:* \_\_\_\_\_

*Signature and Date:* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Proposing Firm Name:* \_\_\_\_\_

**Sun Corridor Metropolitan Planning Organization**  
**Title VI Assurances**

The **Sun Corridor Metropolitan Planning Organization** (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through *Federal Highway Administration and Arizona Department of Transportation*, is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation--Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- 23 C.F.R. Part 200 Subchapter C-Civil Rights (Title VI program implementation and related statutes)

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda and/or guidance, the Recipient hereby gives assurances that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its *Federal Aid Highway Program*.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all *Federal Aid Highway Program* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The **Sun Corridor Metropolitan Planning Organization**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to a construct a facility or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures

or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, **Sun Corridor Metropolitan Planning Organization** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing *Federal Highway Administration or Arizona Department of Transportation* access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the *Federal Highway Administration or Arizona Department of Transportation*. You must keep records, reports, and submit the material for review upon request to *Federal Highway Administration, Arizona Department of Transportation*, or its designee in timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

**Sun Corridor Metropolitan Planning Organization** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the *Federal Highway Administration and Arizona Department of Transportation*. This ASSURANCE is binding on Arizona, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the *Federal Aid Highway Program* the person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

**Sun Corridor Metropolitan Planning  
Organization**

**(Name of Recipient)**

by   
**(Signature of Authorized Official)**

DATED March 22, 2016

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, *Federal Highway Administration or the Arizona Department of Transportation*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient, the *Federal Highway Administration or Arizona Department of Transportation* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation*, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration or Arizona Department of Transportation*, may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that **Sun Corridor Metropolitan Planning Organization** will accept title to the lands and maintain the project constructed thereon in accordance with *Title 23*, United States Code the Regulations for the Administration of *Federal Aid for Highways*, and the policies and procedures prescribed by the *Arizona Department of Transportation ,Federal Highway Administration* and the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252;42 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the **Sun Corridor Metropolitan Planning Organization** all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto **Sun Corridor Metropolitan Planning Organization** and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the **Sun Corridor Metropolitan Planning Organization**, its successors and assigns.

The **Sun Corridor Metropolitan Planning Organization** ,in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [.] [and]\* (2) that the **Sun Corridor Metropolitan Planning Organization** will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **Sun Corridor Metropolitan Planning Organization** pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities,

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, **Sun Corridor Metropolitan Planning Organization** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*

C. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, **Sun Corridor Metropolitan Planning Organization** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the **Sun Corridor Metropolitan Planning Organization** and its assigns\*.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by **Sun Corridor Metropolitan Planning Organization** pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, **Sun Corridor Metropolitan Planning Organization** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, **Sun Corridor Metropolitan Planning Organization** will there upon revert to and vest in and become the absolute property of **Sun Corridor Metropolitan Planning Organization** and its assigns.\*

Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et seq).

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, *Federal Highway Administration or the Arizona Department of Transportation*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient, the *Federal Highway Administration or Arizona Department of Transportation* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation*, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration or Arizona Department of Transportation*, may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et seq).

E

## **PROFESSIONAL SERVICES DBE PROVISIONS**

(PROJECT SPECIFIC - CONTRACTS)

FOR USE ON LPA/SUBRECIPIENT FEDERAL AID PROJECTS WITHOUT DBE GOALS

\* NOTE: REFER TO EDITING INSTRUCTIONS IN SECTIONS 13.0 \*

**(LPA PS EPRISE, 8/26/2016)**

### **DISADVANTAGED BUSINESS ENTERPRISES:**

#### **1.0 Policy:**

The Arizona Department of Transportation (hereinafter the Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Department has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Department to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Department:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program; and
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.

It is also the policy of the Department to facilitate and encourage participation of Small Business Concerns (SBCs), as defined in Subsection 3.0, in USDOT-assisted contracts. The Department encourages consultants to take reasonable steps to eliminate obstacles to SBCs' participation and to utilize SBCs in performing contracts.

Local Public Agencies (LPA) and or Subrecipients of Federal financial assistance will administer and manage the contracts from advertising, consultant selection, negotiation, contract execution, processing payment reports and contract modifications, audits, DBE compliance (e.g., reporting and monitoring) through contract closeout.

## 2.0 Assurances of Non-Discrimination:

The consultant, subrecipient, or subconsultant shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the the LPA/Subrecipient with the Department's concurrence deems appropriate, which may include, but are not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages;
4. Disqualifying the consultant from submitting SOQs, or any other forms of proposals, as non-responsible;
5. Cancellation, termination, or suspension of the Contract, in whole or in part.

The consultant, subrecipient, or subconsultant shall ensure that all subcontract agreements contain this non-discrimination assurance.

## 3.0 Definitions:

**(A) Commercially Useful Function (CUF):** Commercially Useful Function is defined fully in 49 CFR 26.55, which definition is incorporated herein by reference.

**(B) Disadvantaged Business Enterprise (DBE):** a for-profit small business concern which meets both of the following requirements:

- (1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**(C) NAICS Code:** The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

**(D) Non-DBE:** any firm that is not a DBE.

**(E) Race-Conscious (RC):** a measure or program focused specifically on assisting only DBEs, including women-owned DBEs.

**(F) Race-Neutral (RN):** a measure or program used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

**(G) Small Business Concern (SBC):** a business that meets all of the following conditions:

- (1) Operates as a for-profit business registered to do business in Arizona;
- (2) Operates a place of business primarily within the U.S., or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor;
- (3) Is independently owned and operated;
- (4) Is not dominant in its field on a national basis; and
- (5) Does not have annual gross receipts that exceed the Small Business Administration size standards average annual income criteria for its primary North American Industry Classification System (NAICS) code.

**(I) Socially and Economically Disadvantaged Individuals:** any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - (iii) "Native Americans," which includes persons who are enrolled members of federally or State recognized Indian tribe, Alaskan Natives or Native Hawaiians;
  - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) "Women;"
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

#### **4.0 Working with DBEs:**

The Department works with DBEs and assists them in their efforts to participate in the highway construction program. All proposers should contact the Department's Business Engagement and Compliance Office (BECO) by phone, through email, or at the address shown below, for assistance in their efforts to use DBEs in the highway construction industry. BECO contact information is as follows:

Arizona Department of Transportation  
Business Engagement and Compliance Office  
1801 W. Jefferson St, Suite 101, Mail Drop 154A  
Phoenix, AZ 85007  
Phone (602) 712-7761  
FAX (602) 712-8429  
Email: [ContractorCompliance@azdot.gov](mailto:ContractorCompliance@azdot.gov)  
Website : [www.azdot.gov/bec](http://www.azdot.gov/bec)

#### **4.01 Mentor-Protégé Program**

The Department has established a Mentor-Protégé program as an initiative to encourage and develop disadvantaged businesses in the highway construction industry. The program encourages prime consultants to provide certain types of assistance to certified DBE subconsultants. ADOT encourages consultants and certified DBE subconsultants to engage in a Mentor-Protégé agreement under certain conditions. Such an agreement must be mutually beneficial to both parties and to ADOT in fulfilling requirements of 49 CFR Part 23. For guidance regarding this program refer to the Mentor-Protégé Program Guidelines available on the BECO website.

The Mentor-Protégé program is intended to increase legitimate DBE activities and is not intended to diminish nor circumvent existing DBE rules or regulations.

#### **5.0 Applicability:**

The Department has established an overall annual goal for DBE participation on Federal-aid contracts. The Department intends for the goal to be met with a combination of race conscious efforts and race neutral efforts. Race conscious participation occurs when the consultant uses

a percentage of DBEs, as defined herein, to meet the contract-specified goal. Race neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race neutral as when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

The DBE provisions are applicable to all consultants including DBE consultants.

## **6.0 Certification and Registration:**

### **6.01 DBE Certification:**

Certification as a DBE shall be predicated on:

- (1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise."
- (2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.
- (3) The submission of any additional information which the Department or the applicable Arizona Unified Certification (UCP) agency may require to determine the firm's eligibility to participate in the DBE program.
- (4) The information obtained during the on-site visits to the offices of the firm and to active job-sites.

Applications for certification may be filed online with the Department or the applicable UCP agency at any time through the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) website at <http://www.azutracs.com>.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

ADOT is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at <http://www.azutracs.com>. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification of a DBE is not a representation of qualifications and/or abilities nor does it mean that a DBE firm is guaranteed or entitled to receive or be awarded a contract. Being certified simply means that a firm has met the criteria for DBE certification as outlined in

49 CFR Part 26. The consultant bears all risks of ensuring that DBE firms selected by the consultant are able to perform the work.

## **6.02 SBC Registration:**

To comply with 49 CFR Part 26.39, ADOT's DBE Program incorporates contracting requirements to facilitate participation by Small Business Concerns (SBCs) in federally assisted contracts. SBCs are for-profit businesses authorized to do businesses in Arizona that meet the Small Business Administration (SBA) size standards for average annual revenue criteria for its primary North American Industry Classification System (NAICS) code

While the SBC component of the DBE program does not require utilization of goals on projects, ADOT and the LPA/Subrecipient strongly encourages consultants to utilize small businesses that are registered in AZ UTRACS on their contracts, in addition to DBEs meeting the certification requirement. The consultant may use the AZ UTRACS website to search for certified DBEs and registered SBCs that can be used on the contract. However, SBCs that are not DBEs will not be counted toward the DBE participation.

SBCs can register online at the AZ UTRACS website.

The Department's registration of SBCs is not a representation of qualifications and/or abilities nor does it mean that an SBC firm is guaranteed or entitled to receive or be awarded a contract. Being SBC registered simply means that a firm has met the criteria for SBC registration as outlined in 49 CFR Part 26. The consultant bears all risks of ensuring that SBC firms selected by the consultant are able to perform the work.

## **7.0 DBE Financial Institutions:**

The Department thoroughly investigates the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its service area and makes reasonable efforts to use these institutions. The Department encourages prime consultants to use such institutions on USDOT assisted contracts. However, use of DBE financial institutions will not be counted toward the DBE participation.

The Department and the LPA/Subrecipient encourages prime consultants to research the Federal Reserve Board website at [www.federalreserve.gov](http://www.federalreserve.gov) to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center database.

## **8.0 Time is of the Essence:**

TIME IS OF THE ESSENCE IN RESPECT TO THE DBE PROVISIONS

## **9.0 Computation of Time:**

In computing any period of time described in this DBE special provision, such as calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, Federal or State holiday. In circumstances where the LPA/Subrecipient Procurement Office is closed for all or part of the last day, the period extends to the next day on which the LPA / Subrecipient Procurement Office is open.

## **10.0 Consultant and Subconsultant Requirements:**

### **10.01 General:**

The consultant shall establish a DBE program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Agreements between the proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other proposers are prohibited.

### **10.02 DBE Liaison:**

The consultant shall designate a DBE Liaison responsible for the administration of the consultant's DBE program. The name of the designated DBE Liaison shall be included on the DBE Intended Participation Affidavit Summary.

### **11.0 DBE Goal:**

The Department has not established contract goals for DBE participation in this contract. Consultants are still encouraged to employ reasonable means to obtain DBE participation. Consultants must retain records in accordance with these DBE specifications. The consultant is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

## **12.0 Bidders/Proposers List and AZ UTRACS Registration Requirement:**

Under Title 49 CFR of the Code of Federal Regulations, Part 26.11, DOTs are required to collect certain information from all consultants and subconsultants who seek to work on federally-assisted contracts in order to set overall and contract DBE goals. ADOT collects this information when firms register their companies on the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) web portal at <http://www.azutracs.com/> a centralized database for companies that seek to do business with ADOT. This information will be maintained as confidential to the extent allowed by federal and state law.

Prime consultants and all subconsultants, including DBEs listed in the SOQ must be registered in AZ UTRACS. Proposers may verify that their firm and each subconsultant is registered using the AZ UTRACS website.

Proposers may obtain additional information at the AZ UTRACS website or by contacting the LPA/Subrecipient.

All proposers shall create a Bidders/Proposers list in the AZ UTRACS by selecting all firms, service providers, and vendors that expressed interest or submitted proposals or quotes for this contract. The Bidders/Proposers List form must be complete and must include the names for all subconsultants, service providers, and vendors that submitted proposals or quotes on this project regardless of the proposer's intentions to use the those firms on the project.

All proposers must complete and submit the Bidders/Proposers List online at AZ UTRACS prior to Cost Proposal submittal. A confirmation email will be generated by the system. This email confirmation shall be submitted with the Cost Proposal.

FAILURE TO SUBMIT THE REQUIRED BIDDERS/PROPOSERS LIST CONFIRMATION EMAIL WITH THE COST PROPOSAL BY THE STATED TIME AND IN THE MANNER HEREIN SPECIFIED AND AS OUTLINED IN THE RFQ SHALL BE CAUSE FOR THE PROPOSER'S COST PROPOSAL TO BE REJECTED.

### **13.0 Payment Reporting:**

The consultant shall report on a monthly basis indicating the amounts paid to all subconsultants, of all tiers, working on the project. Reporting shall be in accordance with Prompt Pay and Payment Reporting requirements section \_\_\_\_ of the contract specifications.

### **14.0 Crediting DBE Participation:**

#### **14.01 General Requirements:**

To count toward DBE participation, the DBE firms must be certified at the time of Cost Proposal submission in each NAICS code applicable to the kind of work the firm will perform on the contract. NAICS for each DBE can be found on the AZ UTRACS website. General descriptions of all NAICS codes can be found at <http://www.naics.com/search/>.

Credit towards the consultant's DBE participation is given only after the DBE has been paid for the work performed.

The entire amount of a contract that is performed by the DBE's own forces, including the cost of supplies and materials purchased by the DBE for the work on the contract and equipment leased by the DBE will be credited toward DBE participation. Supplies and equipment the DBE subconsultant purchases or leases from the prime consultant or its affiliate will not be credited toward DBE participation.

The consultant bears the responsibility to determine whether the DBE possesses the proper consultant's license(s) to perform the work and, if DBE credit is requested, that the DBE subconsultant is certified for the requested type of work.

The Department's certification is not a representation of a DBE's qualifications and/or abilities. The consultant bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime consultant, subconsultant, or as a vendor of materials or supplies. The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

The consultant may credit second-tier subcontracts issued to DBEs by non-DBE subconsultants. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

A prime consultant may credit the entire amount of that portion of a contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime consultant or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards the DBE participation only if the DBE's subconsultant is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count toward a DBE participation.

A prime consultant may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consulting, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

#### **14.02 Effect of Loss of DBE Eligibility:**

If a DBE is deemed ineligible (decertified) or suspended in accordance with 49 CFR 26.87 and 26.88, the DBE may not be considered to count toward DBE participation on a new contract, but may be considered to count toward DBE participation under a subcontract that was executed before the DBE suspension or decertification is effective.

When a DBE firm or a DBE prime consultant loses its DBE eligibility and a subcontract or contract has not been executed before a decertification notice is issued to the DBE firm by its certifying agency, the ineligible firm does not count toward DBE participation.

When a subcontract is executed with the DBE firm before the Department notified the firm of its ineligibility, the consultant may continue to use the firm on the contract and may continue to receive DBE participation credit for the firm's work.

#### **14.03 Notifying the Consultant of DBE Certification Status:**

Each DBE contract at any tier shall require any DBE subconsultant or supplier that is either decertified or certified during the term of the contract to immediately notify the consultant and all parties to the DBE contract in writing, with the date of decertification or certification. The consultant shall require that this provision be incorporated in any contract of any tier in which a DBE is a participant.

#### **14.04 Police Officers:**

DBE credit will not be permitted for procuring DPS officers. For projects on which officers from other agencies are supplied, DBE credit will be given only for the broker fees charged, and will not include amounts paid to the officers. The broker fees must be reasonable.

#### **14.05 Commercially Useful Function:**

A prime consultant can credit expenditures to a DBE subconsultant toward DBE participation only if the DBE performs a Commercially Useful Function (CUF).

A DBE performs a CUF when it is responsible for execution of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself that it uses on the project. To determine whether a DBE is performing a commercially useful function, the LPA/Subrecipient will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the LPA/Subrecipient will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, LPA/Subrecipient will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The Department will determine if the firm is performing a CUF given the type of work involved and normal industry practices.

The LPA/Subrecipient will notify the consultant, in writing, if it determines that the consultant's DBE subconsultant is not performing a CUF. The consultant will be notified within seven calendar days of the LPA/Subrecipient's decision.

Decisions on CUF may be appealed to the ADOT BECO. The appeal must be in writing and personally delivered or sent by certified mail, return receipt requested, to the ADOT BECO. The appeal must be received by ADOT BECO no later than seven calendar days after the LPA/Subrecipient's decision. LPA/Subrecipient's decision remains in place unless and until the ADOT BECO reverses or modifies LPA/Subrecipient's decision. ADOT BECO will promptly consider any appeals under this subsection and notify the consultant of the ADOT BECO findings and decisions. Decisions on CUF matters are not administratively appealable to USDOT.

The LPA/Subrecipient may conduct project site visits on the contract to confirm that DBEs are performing a CUF. The consultant shall cooperate during the site visits and the LPA/Subrecipient staff will make every effort not to disrupt work on the project.

#### **15.0 Required Provisions for DBE Subcontracts:**

All subcontracts of any tier, all supply contracts, and any other contracts in which a DBE is a participant shall include as a physical attachment, DBE Subconsultant Compliance Assurances available from the LPA/Subrecipient and all of the Uniform Terms and Conditions set forth in other sections of this contract.

Consultants executing agreements with subconsultants, DBE or non-DBE, that materially modify federal regulation and state statutes such as, prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such remedy as the LPA/Subrecipient and ADOT deem appropriate as outlined in DBE Subsection 2.0.

The LPA/Subrecipient reserves the right to conduct random reviews of DBE and non-DBE subcontract documentation to ensure compliance with federal requirements.

The consultant shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontracts be performed in accordance with 49 CFR Part 26 provisions.

The Consultant shall provide electronic copies of signed subcontract agreements for all DBE Subconsultants listed on the DBE Intended Participation Affidavit Summary by uploading them within 15 calendar days of an approved contract to the LPA DBE System.

#### **16.0 Certification of Final DBE Payments:**

DBE participation on the contract is measured by actual payments made to the DBEs. The consultant shall submit the "Certification of Final DBE Payments" form for each DBE firm working on the contract. This form shall be signed by the consultant and the relevant DBE, and submitted to the LPA/Subrecipient no later than 30 days after the DBE completes its work.

The LPA/Subrecipient and ADOT will use this certification and other information available to determine applicable DBE credit allowed to date by the Prime Consultant and the extent to which the DBE firms were fully paid for that work. By the act of filing the forms, the consultant acknowledges that the information is supplied in order to justify the payment of state and federal funds to the consultant.

The consultant will not be released from the obligations of the contract until the "Certification of Final DBE Payments" forms are received and deemed acceptable by the LPA/Subrecipient.

**17.0 False, Fraudulent, or Dishonest Conduct:**

In addition to any other remedies or actions, the Department will bring to the attention of the US Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take steps such as referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General for possible initiation of suspension and debarment proceedings against the offending parties or application of "Program Fraud and Civil Penalties" rules provided in 49 CFR Part 31.

**CONSTRUCTION AND PROFESSIONAL SERVICES/DESIGN CONTRACTS  
PROMPT PAY AND PAYMENT REPORTING PROVISIONS**

\*\* FOR USE ON LPA FEDERAL AID PROJECTS \*\*

**(09/20/2016)**

**MEASUREMENTS AND PAYMENT:**

**Partial Payments:**

If satisfactory progress is being made, the contractor will receive a payment based on the amount of work completed. Progress payments may be made by the LPA/ Subrecipient Procurement Office to the contractor on the basis of an approved estimate of the work performed during a preceding period of time. The progress payments shall be paid on or before 14 days after the estimate of the work is approved. The estimate of the work shall be deemed received by the LPA/Subrecipient Procurement Office on submission to the person designated by the LPA/Subrecipient Procurement Office for the submission, review or approval of the estimate of the work. The LPA/Subrecipient Procurement Office by mutual agreement may make progress payments on contracts of less than 90 days and shall make monthly progress payments on all other contracts. Payment to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under the contract may include payment for material and equipment.

An estimate of the work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the LPA/Subrecipient Procurement Office or Designee prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the contract. The contractor shall work with the LPA/Subrecipient or the LPA/Subrecipient Designee to finalize monthly estimate. The progress payments shall be paid on or before 14 days after the estimate of the work is certified and approved in accordance with Arizona Revised Statutes Section 34-221.

The contractor shall pay to the contractor's subcontractors or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor or material supplier, within seven days of receipt of each progress payment the respective amounts allowed the contractor or subcontractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest, except that no contract for construction services may materially alter the rights of any contractor, subcontractor or material supplier to receive prompt and timely payment.

A subcontractor may notify the LPA/Subrecipient Procurement Office in writing requesting that the subcontractor be notified by the Subrecipient Procurement Office in writing within five days from payment of each progress payment made to the contractor.

## **Subcontractor Payments:**

### **(1) Retention:**

If the prime contract does not provide for retention, the contractor and each subcontractor of any tier shall not withhold retention on any subcontract. If the prime contract provides for retention, the prime contractor and each subcontractor of any tier shall not retain a higher percentage than the LPA/Subrecipient may retain under the prime contract.

### **(2) No Set-offs Arising from Other Contracts:**

If a subcontractor is performing work on multiple contracts for the same contractor or subcontractor of any tier, the contractor or subcontractor of any tier shall not withhold or reduce payment from its subcontractors on the contract because of disputes or claims on another contract.

### **(3) Partial Payment:**

The contractor and each subcontractor of any tier shall make prompt partial payments to its subcontractors within seven days of receipt of payment from the LPA/Subrecipient Procurement Office. Notwithstanding any provision of Arizona Revised Statutes Section 34-221, the parties may not agree otherwise.

### **(4) Final Payment:**

The contractor and each subcontractor of any tier shall make prompt final payment to each of its subcontractors. The contractor and each subcontractor of any tier shall pay all monies, including retention, due to its subcontractor within seven days of receipt of payment. Notwithstanding any provision of Arizona Revised Statutes Section 34-221, the parties may not agree otherwise.

### **(5) Payment Reporting:**

For the purposes of this subsection "Reportable Contracts" means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any tier with a DBE material supplier.

The requirements of this subsection apply to all Reportable Contracts.

Payment Reporting for all Reportable Contracts shall be done through the LPA DBE System which can be accessed at AZ UTRACS on the Arizona Transportation Business Portal at [www.azutracs.com](http://www.azutracs.com). No later than fifteen calendar days after the preconstruction conference, the contractor shall log into the system and enter or verify the name, contact information, and subcontract amounts for Reportable Contracts on the project. As Reportable Contracts are approved over the course of the contract, the contractor shall enter the subcontractor information in the LPA DBE System. Reportable contracts information shall be entered into

the system no later than five calendar days after approval by the LPA/Subrecipient Procurement Office.

The contractor shall report on a monthly basis indicating the amounts actually paid and the dates of each payment under any Reportable Contract on the project. The contractor shall provide information for payments made on all Reportable Contracts during the previous month by the last day of the current month. In the event that no payments were made during a given month, the contractor shall identify that by entering a dollar value of zero. If the contractor does not pay the full amount of any invoice from a subcontractor, the contractor shall note that and provide the reasons in the comment section of the Monthly Payment Audit of the LPA DBE System.

In addition, the contractor shall require that all participants in any Reportable Contract electronically verify receipt of payment on the contract within 15 days of receipt of electronic payment notification and the contractor shall actively monitor the system to ensure that the verifications are input. The contractor shall proactively work to resolve any payment discrepancies in the system between payment amounts it reports and payment confirmation amounts reported by others.

The contractor shall ensure that all Reportable Contract payment activity is in the LPA DBE System. This includes all lower-tier Reportable Contracts.

The contractor shall maintain records for each payment explaining the amount requested by the subcontractor, and the amount actually paid pursuant to the request, which may include but are not limited to, estimates, invoices, pay requests, copies of checks or wire transfers, and lien waivers in support of the monthly payments in the system.

The contractor shall ensure that a copy of this Subsection is included in every Reportable Contract of every tier.

**(a) Sanctions for Inadequate Reporting:**

For each Reportable Contract on which the contractor fails to submit timely and complete payment information the LPA/Subrecipient Procurement Office will retain \$1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to \$2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

**(6) Completion of Work:**

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted by the LPA/Subrecipient Procurement Office.

## **(7) Disputes:**

If there is a discrepancy between what is reported by the contractor in the LPA DBE System and what the subcontractor indicates, an alert email will automatically be sent to the contractor. The email will be sent to the email address provided by the contractor in the LPA DBE System. It is the contractor's responsibility to ensure that the email address in the system is kept current.

The contractor shall provide a verifiable explanation of the discrepancy in the LPA DBE System as early as practicable but in no case later than seven days after the date of the alert email.

The LPA/Subrecipient will determine whether the contractor has acted in good faith concerning any such explanations. The LPA/Subrecipient and ADOT BECO reserves the right to request and receive documents from the contractor and all subcontractors of any tier, in order to determine whether prompt payment requirements are met.

The contractor shall implement and use the dispute resolution process outlined in the subcontract or by following the LPA/Subrecipient escalation process, to resolve payment disputes.

## **(8) Non-compliance:**

Failure to make prompt partial payment, or prompt final payment including any retention, within the time frames established above, will result in remedies, as the LPA/Subrecipient Procurement Office deems appropriate, which may include but are not limited to:

- (a) **Liquidated Damages:** These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.
  - (i) The LPA/Subrecipient Procurement Office will withhold two times the disputed dollar amount not paid to each subcontractor.
  - (ii) If full payment is made within 30 days of the LPA/Subrecipient Procurement Office's payment to the contractor, the amount withheld by the LPA/Subrecipient Procurement Office will be released.
  - (iii) If full payment is made after 30 days of the LPA/Subrecipient Procurement Office's payment to the contractor, the LPA/Subrecipient Procurement Office will release 75 percent of the funds withheld. The LPA/Subrecipient Procurement Office will retain 25 percent of the monies withheld as liquidated damages.
- (b) **Additional Remedies.** If the contractor fails to make prompt payment for three consecutive months, or any four months over the course of one

project, or if the contractor fails to make prompt payment on two or more projects within 24 months, the LPA/Subrecipient Procurement Office may, in addition, invoke the following remedies:

- (i) Withhold monthly progress payments until the issue is resolved and full payment has been made to all subcontractors, subject to the liquidated damages described in paragraph (a) above,
- (ii) Terminate the contract for default,
- (iii) Disqualify the contractor from future bidding, temporarily or permanently, depending on the number and severity of violations, if applicable.

In determining whether liquidated damages will be assessed, the extent of the liquidated damages, or additional remedies assessed, the LPA/Subrecipient will consider whether there have been other violations on this or other federal-aid contracts, whether the failure to make prompt payment was due to circumstances beyond the contractor's control, and other circumstances. The contractor may, within 15 calendar days of receipt of the decision of the LPA/Subrecipient, escalate the decision according to the contract's escalation process.