



LAKE HAVASU CITY, ARIZONA PURCHASE ORDER GENERAL TERMS & CONDITIONS

SECTION 1

- a. **This Purchase Order is a Contract.** This form, when signed by a representative of the City and accepted by a Vendor/Contractor, is a Contract between the parties and is subject to the terms and conditions contained herein (this "PO"). All agreements between the parties and representations made by either party regarding this PO are contained within this PO. No waiver of, modification, or change in the price or terms of this PO shall be allowed and shall be binding on both parties unless changed in writing and signed by both parties.
- b. **Contract Documents.** The overall agreement between the parties consists of the following documents: (1) Contract; (2) Special Terms and Conditions; (3) Contract Terms and Conditions; (4) Specifications; (5) Scope of Work, Description of Services, and Rate; (6) Solicitation Amendment(s); (7) Solicitation Document; (8) Offer and Response from the Vendor/Contractor; and (9) this PO (the "Contract Documents"). The Contract Documents constitute the entire agreement between the parties and supersede all prior oral or written statements or agreements.
- c. **Priority Among Contract Documents.** In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest priority shall prevail. The order of priority shall be the numerical order of documents listed in Section 1 (b) Contract Documents, beginning with the Contract having the highest priority and this PO having the lowest priority. If there are multiple Contract Amendments, the most recent amendment shall have the highest priority and the oldest amendment shall have the lowest priority.
- d. **FOB Point of Delivery.** All pricing, labor, materials and services are to be FOB destination and delivered within the city limits of Lake Havasu City, Arizona, unless otherwise specified.
- e. **Title and Risk of Loss.** The title and risk of loss of goods and/or services shall not pass to the City until the City actually receives the goods and/or services at the point of delivery FOB; and such loss, injury, or destruction shall not release the Vendor/Contractor from any obligation hereunder.
- f. **Non-Performance.** In the event of nonperformance under this PO, the City, after **seven (7) days** written notice to the Vendor/Contractor, shall have the right to obtain from other sources such goods and/or services as may be required to accomplish the work not performed. It is agreed that the difference in cost, if any, for said work or goods shall be borne by the Vendor/Contractor. Non-performance shall be defined as failure to appear and perform work and/or deliver goods as specified and scheduled.
- g. **Insurance.** Unless Vendor/Contractor ships all goods to be supplied under this PO by common carrier and will not make deliveries to the City using its own employees, Vendor/Contractor shall furnish to the City Certificates of Insurance ("Certificate"), as specified herein, upon delivery and execution of this PO. Coverage must be provided by an insurance company admitted to do business in Arizona and rated A-VII or better by AM Best's Insurance Rating. Contractor's coverage will be primary in the event of loss. Contractor shall pay all deductibles and retentions. A cross-liability clause or separation of insured's condition will be included in all commercial general liability policies required by this Contract. The Certificate shall provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without **ten (10) working days** written notice from the Vendor's/Contractor's insurer to the City. The Certificate shall also state the deductible or retention level. If requested, complete copies of insurance policies shall be provided to the City. Contractor shall provide Certificates evidencing the following:
- i. **Workers Compensation Insurance** in compliance with A.R.S. Title 23, Chapter 6, together with employer's liability insurance with coverage limits of not less than \$1,000,000.
 - ii. **Commercial General Liability Insurance**, on an occurrence basis, with a combined single limit of not less than \$1,000,000, each occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000. This insurance shall include contractual liability coverage.
 - iii. **Automobile Liability Insurance** with a combined single limit, or the equivalent of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles.
 - iv. **Product Liability Coverage.** Certificates of Insurance for product liability coverage are required from Vendors/Contractors or product manufacturers of higher hazard equipment where potential for loss is greater than normal (i.e., chemicals, heavy road equipment, machinery, etc.). This procedure verifies that the manufacturing company has proper product liability insurance and economic backing in the event of a catastrophic loss relating to a failure, malfunction, defect or other condition relating to the manufacture of the specific product.
 - v. **Additional Insureds.** For commercial general liability and automobile liability insurance policies, the Certificate shall also provide that "**Lake Havasu City, its agents, directors, officers, officials, and employees are additional Insureds with respect to Vendor's/Contractor's services to be provided under this PO.**" If requested, complete copies of insurance policies shall be provided to the City.

The amount and type of insurance coverage as required herein is not intended to, and shall not be interpreted to, limit the scope of the indemnity set forth in Section 2.

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- h. **Prohibition on Government Contracts.** The Vendor/Contractor shall comply with all applicable provisions of the A.R.S. § 35–397 Finances. Vendor/Contractor further agrees that they shall not have any scrutinized business operations in Sudan and/or Iran.
- i. **Terrorism Country Divestments.** In accordance with A.R.S. § 35–391, the City is prohibited from purchasing from a company that is in violation of the Export Administration Act. By entering into this PO, Vendor/Contractor warrants compliance with the Export Administration Act.
- j. **Evidence of lawful presence in the United States.** In accordance with A.R.S. §§ 1-501, 1-502 and as a condition of entering into this Contract, a natural person shall execute the affidavit attached hereto as **Exhibit 1** and present one of the identification documents contained therein (the "Identification Documents") to verify their lawful presence in the U.S. Failure to execute the affidavit upon submittal of the Contract Documents shall be considered nonresponsive and shall result in rejection of the submitted response and automatic cancellation of this Contract. Companies, corporations, and limited partnerships (anyone other than an individual) are not required to complete and submit this form prior to receiving a public benefit.
- k. **Israel.** If applicable, Contractor certifies that it is not currently engaged in, and agrees for the duration of this Contract that it will not engage in, a boycott of goods and services from Israel, as defined in A.R.S. § 35-393.

SECTION 2

- a. **Indemnity and Hold Harmless.** Vendor/Contractor shall defend, hold harmless and indemnify Lake Havasu City, its agents, directors, officers, officials, and employees from all claims, suits, or actions of any nature resulting from or arising out of the activities of the Vendor/Contractor or its officers, employees, subcontractors, or agents under this PO. It is the specific intention of the parties that the City, its agents, directors, officers, officials, and employees shall, in all instances, be indemnified by the Vendor/Contractor from and against any and all claims, regardless of whether or not the claims are caused in whole or in part by a party indemnified hereunder.
- b. **Anti-discrimination Clause.** Vendor/Contractor shall not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, or political affiliation in programs, activities, services, benefits, or employment. Vendor/Contractor shall not discriminate against minority-owned, women-owned, or disadvantaged small businesses. Vendor/Contractor shall include a provision in each sub-contract related to the Contract Documents requiring subcontractors to comply with the requirements of this section.
- c. **Governing Law.** The provisions of this PO shall be construed in accordance with the laws of the State of Arizona and municipal code of Lake Havasu City. Any legal action arising under this PO must be brought in Mohave County, Arizona, or if the claim must be brought in federal forum, then in the District of Arizona.
- d. **Compliance with Applicable Law.** Vendor/Contractor shall observe and comply with all established federal, state, and local administrative rules, codes, ordinances, regulations, standards, and laws applicable to the work under this PO regardless of whether or not they are referred to by the City.
- e. **Termination.** The City may terminate this PO at any time. If this PO is terminated by the City, the City shall pay Vendor/Contractor for work performed prior to the termination date if such work was performed in accordance with this PO, less any offset to which the City is entitled. The City shall not be liable for damages of any kind as a result of termination. Termination shall not result in a waiver of any claim the City may have against Vendor/Contractor.
- f. **Taxpayer Identification Information.** Pursuant to Arizona Revised Statutes, Title 42, a Federal Tax Identification number or social security number, if sole proprietor, is required to do business with the City and will be used for the administration of state, federal, and local laws. Payment information will be reported to the Internal Revenue Service under the name and federal tax identification number or, if none, the Social Security number provided.

SECTION 3 - TERMS RELATING TO PURCHASE OF GOODS

- a. **Invoice.** Invoices submitted shall contain the following information: Purchase Order number; item numbers; description of merchandise invoiced including sizes, quantities, unit prices, and extended totals; sales tax and the name of the department, division, or section to which the merchandise was delivered or shipped. City is exempt from federal excise taxes. All Arizona state and local taxes apply. City will provide a federal exemption number to Vendor/Contractor, when applicable, so Vendor/Contractor can complete the federal exemption certificate.
- b. **Merchandise Quality and Warranty.** All merchandise supplied shall be new, of the latest model available, of merchantable quality, and fit for the purpose for which it is sold and shall conform to the specifications on this Purchase Order unless the description of the item specifically provides otherwise. Vendor/Contractor shall supply all written materials to the City concerning Vendor/Contractor or manufacture's standard certifications and warranties. All merchandise shall comply with federal, state and local laws and regulations applicable to manufacture and processing of the merchandise.
- c. **Packing and Shipping.** Vendor/Contractor shall be responsible for industry standard packing which conforms to product and the requirements of carrier's tariffs, ICC regulations, and other applicable regulations. Containers must be clearly marked with the Purchase Order number, contact person, phone number, department, and FOB delivery address.



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- d. **Fuel Surcharges.** All pricing shall be protected from increase for three (3) months from the execution date of this Contract, Purchase Order, or Notice to Proceed. Fuel charges shall not be allowed unless disclosed at the time the Vendor/Contractor submits a response to a solicitation or quote and subsequently closed at the stated date and time. Fuel surcharges will only be allowed if the price per gallon of gasoline/diesel fuel **increases more than 20 percent (20%)** from the gasoline/diesel fuel prices posted on the day the solicitation closed. The index used for diesel prices is Weekly On Highway Diesel Prices for the Rocky Mountain Region. The index for gasoline prices is Weekly Retail Gasoline Prices for the Rocky Mountain Region. Both are posted each Monday by the Energy Information Agency at:
<http://tonto.eia.doe.gov/oog/info/gdu/gasdiesel.asp>
http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_dcus_nus_w.htm
- e. **Shipment Reservation Prohibited.** Vendor/Contractor shall not ship the goods under reservation and no tender of a bill of lading will operate or function as a tender of the goods.
- f. **Inspection and Acceptance.** Goods furnished under this PO shall be subject to inspection and testing by the City at times and places determined by the City, and within a reasonable time after arrival at its ultimate destination. If the City finds goods furnished to be incomplete, unsatisfactory, defective, of inferior quality or workmanship, fails to meet the specifications or other requirements, or not in compliance with this PO, the City, at its sole discretion, may either reject the goods, require Vendor/Contractor to correct any defects without charge, or negotiate with Vendor/Contractor to sell the goods to the City at a reduced price, whichever the City deems equitable under the circumstances. City may return such goods to Vendor/Contractor at Vendor's/Contractor's expense. Vendor/Contractor shall reimburse City for any amounts paid by the City for the returned goods and any costs incurred by the City to return the goods to the Vendor/Contractor. If Vendor/Contractor is unable or refuses to cure any defects within a time deemed reasonable by the City, the City may reject the goods and cancel this PO in whole or in part. Payment for merchandise prior to inspection shall not be construed to be an acceptance of unsatisfactory or defective merchandise. Nothing in this paragraph shall in any way affect or limit the City's rights as buyer under the Uniform Commercial Code, including the rights and remedies relating to rejection or revocation of acceptance under Arizona Revised Statute, Title 47.

SECTION 4 - TERMS RELATING TO PURCHASE OF SERVICES

- a. **Performance of the Work.** All work under this PO shall be performed in a professional and workmanlike manner. Vendor/Contractor shall not subcontract any of the work required by this PO or assign or transfer any of its interest in this PO. Time is of the essence in the performance of this PO.
- b. **Invoice.** An invoice shall be submitted upon completion of the work unless otherwise provided on the face of this PO. If the work is to be paid on an hourly basis, the invoice shall state in detail each task performed, the person performing the task, the number of hours for each task, the hourly rate, and sales tax.
- c. **Access to Records.** Vendor/Contractor shall maintain fiscal records and all other records pertinent to this PO. All fiscal records shall be maintained pursuant to generally accepted accounting standards, and other records shall be maintained to the extent necessary to clearly reflect actions taken. All such records shall be retained and kept accessible for no less than **six (6) years** following final payment. City's authorized representatives shall have the right to direct access to all of Vendor's/Contractor's books, documents, papers and records related to this PO for the purpose of conducting audits and examinations and making copies, excerpts and transcripts. City shall reimburse Vendor/Contractor for Vendor's/Contractor's cost of preparing copies at a rate of \$.10 per page.
- d. **Vendor's/Contractor's Employee E-Verify Eligibility Requirement.** The Vendor/Contractor shall comply with all applicable provisions of the Federal Immigration and Nationality Act (FINA), A.R.S. § 41-4401 and A.R.S. § 23-214, which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program. See the following website for further information: www.dhs.gov/e-verify.
Pursuant to A.R.S. § 41-4401, the City may request verification of compliance from any contractor or subcontractor performing work under this PO. The City reserves the right to confirm compliance. Should the City suspect or find that the contractor or any of its subcontractors are not in compliance, the City may pursue any and all remedies allowed by law, including, but not limited to suspension of work, termination of this PO for breach or default, and suspension and/or debarment of the contractor. All costs necessary for compliance shall be solely borne by the Vendor/Contractor.
- e. **Ownership of Work.** All work products created by the Vendor/Contractor as part of Vendor's/Contractor's performance of this PO shall be the exclusive property of the City. If any such work products contain intellectual property of the Vendor/Contractor that is or could be protected by federal copyright, patent, or trademark laws, Vendor/Contractor hereby grants City a perpetual, royalty-free, paid in full to date, non-exclusive, and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all such work products. City shall have no rights in any pre-existing work product of Vendor/Contractor provided to City by Vendor/Contractor in the performance of this PO except to copy, use, and re-use any such work product for City use only. If this PO is terminated prior to completion, and the City is not in default, City, in addition to any other rights provided by this PO, may require the Vendor/Contractor to transfer and deliver all partially completed work products, reports, or documentation that the Vendor/Contractor has specifically developed or specifically acquired for the performance of this PO.



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ONLY A NATURAL PERSON SHALL EXECUTE THIS DOCUMENT PRIOR TO AWARD

EXHIBIT 1 - AFFIDAVIT OF LAWFUL PRESENCE IN THE UNITED STATES

A.R.S. §§ 1-501 and 502 require that any natural person (excluding companies, corporations, and limited partnerships) prior to receiving a public benefit (e.g., a grant, contract, or loan) administered by Lake Havasu City must demonstrate through the presentation of one (1) of the following documents that he or she is lawfully present in the United States.

LAWFUL PRESENCE IN THE UNITED STATES CAN BE DEMONSTRATED BY PRESENTATION OF ONE (1) OF THE DOCUMENTS LISTED BELOW.

Please present the document indicated below to a Notary for review and signing of the affidavit form. Upon completion of this form, submit the original to: Lake Havasu City, City Clerk's Office, 2330 McCulloch Blvd, Lake Havasu City, AZ, 86403.

- _____ 1. A state (U.S.) driver license issued after 1996.
Print first 4 numbers/letters from license: _____
- _____ 2. A state (U.S.) non-operating identification License.
Print first 4 numbers/letters: _____
- _____ 3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
Year of birth: _____; Place of birth: _____
- _____ 4. A United States Certificate of Birth abroad.
Year of birth: _____; Place of birth: _____
- _____ 5. A United States passport.
Print first 4 numbers/letters on Passport: _____
- _____ 6. A foreign passport with a United States Visa.
Print first 4 numbers/letters on Passport _____
Print first 4 numbers/letters on Visa _____
- _____ 7. An I-94 form with a photograph.
Print first 4 numbers on I-94: _____
- _____ 8. **A UNITED STATES CITIZENSHIP & IMMIGRATION SERVICES EMPLOYMENT AUTHORIZATION DOCUMENT (EAD).**
Print first 4 numbers/letters on EAD: _____
- _____ 9. **REFUGEE TRAVEL DOCUMENT.**
Date of Issuance: _____ Refugee Country: _____
- _____ 10. **A UNITED STATES CERTIFICATE OF NATURALIZATION.**
Print first 4 digits of CIS Reg. No.: _____
- _____ 11. **A UNITED STATES CERTIFICATE OF CITIZENSHIP.**
Date of Issuance: _____ Place of Issuance: _____
- _____ 12. **A TRIBAL CERTIFICATE OF INDIAN BLOOD.**
Date of Issuance: _____ Name of Tribe: _____
- _____ 13. **A TRIBAL OR BUREAU OF INDIAN AFFAIRS AFFIDAVIT OF BIRTH.**
Year of Birth: _____ Place of Birth: _____

I DO SWEAR OR AFFIRM UNDER PENALTY OF LAW THAT I AM LAWFULLY PRESENT IN THE UNITED STATES AND THAT THE DOCUMENT I PRESENTED ABOVE AS VERIFICATION IS TRUE.

Signature

Business/Company Address (if applicable)

Print Name

Address

Date: _____

City, State, Zip Code

Return completed form to: Lake Havasu City, City Clerk's Office, 2330 McCulloch Blvd, Lake Havasu City, AZ, 86403.

NOTARY USE ONLY: NOTARY NAME: _____
(Print Name)

NOTARY SIGNATURE (Stamp) & DATE: _____

ALL VIOLATIONS OF FEDERAL IMMIGRATION LAW SHALL BE REPORTED TO 1-866-347-2423