



**PURCHASING ITEM  
FOR  
COUNCIL AGENDA**

**1. Agenda Item Number:**

*26*

**2. Council Meeting Date:**

July 28, 2011

**TO: MAYOR & COUNCIL**

**3. Date Prepared:** June 29, 2011

**THROUGH: CITY MANAGER**

**4. Requesting Department:** Management Svs

**5. SUBJECT:** Award agreement WH1-914-3005 for the purchase of Electrical Supplies to Brown Wholesale Electric in an amount not to exceed \$175,000.

**6. RECOMMENDATION:** Recommend award of agreement WH1-914-3005 for the purchase of Electrical Supplies to Brown Wholesale Electric in an amount not to exceed \$175,000.

**7. HISTORICAL BACKGROUND/DISCUSSION:** The requested award is for the supply of a variety of electrical supplies that are stocked in the City's Central Supply and used primarily by the Parks & Facilities, Housing & Redevelopment and Traffic Engineering Divisions. In addition to items stocked in Central Supply, these divisions will purchase some of the requested items direct from the recommended suppliers. Some of the products available under the requested contract include connectors, fuses, gaskets, conduits, wires, as well as ballasts, tape and cable ties.

**8. EVALUATION PROCESS:** On June 2, 2011, the City issued bid WH1-914-3005 for the purchase of Electrical Supplies. The bid was advertised, all registered vendors were notified, and additional copies were sent to known suppliers of the requested items. Bids were opened on June 21, 2011. The City received five responses. The bid included 100 common-use items for evaluation plus a discount percentage off all other items available by the vendors. The recommended award is based on the evaluation of each low price by item and awarded by low item provided, after deemed responsive and responsible to include the 1 recommended vendor listed. All items bid were based on a discount from manufacturer's list price. Discounts range from 10% - 80%. The recommended agreement will have a one-year term with provisions to extend for four additional one-year periods.

**9. FINANCIAL IMPLICATIONS:** Funds for the purchase of electrical supplies will be from the Central Supply Inventory account 101.0000.0000.1516 and charged back to individual cost centers as supplies are issued.

**10. PROPOSED MOTION:** Move to award agreement WH1-914-3005 for the purchase of Electrical Supplies to Brown Wholesale Electric in an amount not to exceed \$175,000.

**APPROVALS**

**11. Requesting Department**

Robert Descheemaker, CPPB  
Purchasing & Materials Supervisor

**12. Department Head**

Dennis Strachota, Management Services Director

**13. Procurement Officer**

Kristy Garcia, CPPB

**14. City Manager**

Rich Dlugas

**CITY OF CHANDLER PURCHASE CONTRACT  
ELECTRICAL SUPPLIES  
AGREEMENT NO.: WH1-914-3005**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Wesco Distribution dba Brown Wholesale Electric, hereinafter referred to as "CONTRACTOR".

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

**1. CONTRACT ADMINISTRATION AND OPERATION:**

- 1.1. **Contract Administrator:** CONTRACTOR shall act under the authority and approval of the Central Supply Supervisor /designee (Contract Administrator), to provide the goods and merchandise required by this Contract.
- 1.2. **Ordering Instructions:** Authorization for purchases under the terms and conditions of this contract will be made only upon issuance of a CITY Purchase Order, a Contract Release Order or use of a City Procurement Card.
- 1.3. **Ordering Process.** Upon award of a contract by the City, any designated department may procure the specific product, equipment or material awarded by the issuance of a Contract Purchase Order to the appropriate CONTRACTOR. Each Contract Purchase Order must cite the correct Chandler contract number.
- 1.4. **Usage Report. Annually** CONTRACTOR shall furnish CITY a usage report delineating the acquisition activity governed by the contract. The format of the report shall be approved by CITY and shall disclose the quantity and the dollar value of each contract item by individual purchasing unit.

**2. GOODS AND MERCHANDISE TO BE PROVIDED:** CONTRACTOR shall provide to CITY the goods and merchandise listed on Exhibit B, attached hereto and made a part hereof by reference, at the prices listed on Exhibit B, all as more specifically set forth in the Specifications and details included therein.

- 2.1. **Safety Standards:** All items supplied pursuant to this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.
- 2.2. **Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.3. **Product Discontinuance (Categories):** In the event that a required product or model is discontinued by the manufacturer, CITY at its sole discretion may allow CONTRACTOR to provide a substitute for the discontinued item. CONTRACTOR shall request permission to substitute a new product or model and provide the following:
  - 2.3.1. A formal announcement from the manufacturer that the product or model has been discontinued.
  - 2.3.2. Documentation from the manufacturer that names the replacement product or model.
  - 2.3.3. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.

- 2.3.4. Documentation confirming that the price for the replacement is the same as or less than the discontinued model.
- 2.3.5. If requested by CITY, CONTRACTOR shall provide a sample of the replacement product.
- 2.4. **Licenses:** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by CONTRACTOR as applicable to this contract.
- 2.5. **Contract Orders:** CONTRACTOR shall, in accordance with all terms and conditions of this Contract, fully perform and shall be obligated to comply with all contract orders received by CONTRACTOR prior to the expiration or termination hereof, unless otherwise directed in writing by the Contract Administrator, including, without limitation, all contract orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.
- 2.6. **Advertising, Publishing and Promotion of Contract:** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 2.7. **Compliance With Applicable Laws:** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.
- 2.8. **Assignment:** Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.
- 2.9. **Amendments:** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.
- 2.10. **Payment.** A separate invoice shall be issued for each shipment of goods or materials, and no payment will be issued prior to receipt of goods or materials and receipt of a correct invoice.
- 2.11. **Estimated Quantities.** The quantities shown on Exhibit B (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. CITY reserves the right to increase or decrease the quantities actually required.
- 2.12. **Catalogs/Contract Price Listing.** As applicable, the CONTRACTOR(s) shall be required to furnish to all requesting departments catalogs at no cost, which will outline contract prices.
- 2.13. **Current Models.** It is CITY's intent to procure materials of the latest technology. All materials bid must be in current production and parts must be available for a minimum of five (5) years from bid date.
- 2.14. **Current Products.** All products offered in response to this solicitation shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

- 2.15. **New/Current Products.** All goods, equipment, materials, parts and other components supplied pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended.
- 2.16. **New Products.** New products announced by manufacturers on contract may be submitted by the CONTRACTOR for add-ons to the existing contract. Pricing shall be equivalent to the percentage discount for each brand or class of product originally offered.
- 2.17. **Packing and Shipping.** The CONTRACTOR shall be responsible for industry standard packing, which conforms to requirements of carrier's tariffs and Interstate Commerce Commission (ICC) regulations. Containers must be clearly marked as to lot number, destination, address and purchase order number.

### 3. WARRANTIES:

- 3.1. **Liens:** CONTRACTOR warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 3.2. **Quality:** Unless otherwise modified elsewhere in these terms and conditions, CONTRACTOR warrants that, for one year after acceptance by CITY of the materials, they shall be:
- 3.2.1. Of a quality to pass without objection in the trade under the Contract description;
  - 3.2.2. Fit for the intended purposes for which the materials are used;
  - 3.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
  - 3.2.4. Adequately contained, packaged and marked as the Contract may require; and
  - 3.2.5. Conform to the written promises or affirmations of fact made by CONTRACTOR.
- 3.3. **Fitness:** CONTRACTOR warrants that any material supplied to CITY shall fully conform to all requirements of the Contract and all representations of CONTRACTOR, and shall be fit for all purposes and uses required by the Contract.
- 3.4. **Inspection/Testing:** The warranties set forth in Section 3 herein are not affected by inspection or testing of or payment for the materials by CITY.
- 3.5. **One-Year Warranty.** CONTRACTOR must provide a one-year warranty on all goods or equipment supplied pursuant to this Contract.
4. **ACCEPTANCE AND DOCUMENTATION:** All goods are subject to final inspection and acceptance by CITY. Material failing to meet the requirements of this Contract will be held at CONTRACTOR's risk and may be returned to CONTRACTOR. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of CONTRACTOR. CITY may elect to do any or all of the following: Waive the non-conformance; stop the work immediately; or bring the material into compliance. Defective Products. All defective products shall be replaced and exchanged by CONTRACTOR. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the CONTRACTOR. All replacement products must be received by CITY within seven (7) days of initial notification
- 4.1. **Records.** The CONTRACTOR shall retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

- 4.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, CONTRACTOR's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, CONTRACTOR shall produce a legible copy of any or all such records.
- 4.3. **Delivery.** Delivery shall be made within one (1) calendar days after receipt of a Contract Purchase Order (ARO) on most items. American brand items, 4-5 weeks and non-stock GE items 4-6 weeks.
5. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed One Hundred Seventy Five Thousand Dollars (\$175,000) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit B, attached hereto and made a part hereof by reference.
- 5.1. **Pricing:** Prices stated include all freight, insurance, warranty costs, and any other applicable costs.
- 5.2. **Payment:** A separate invoice shall be issued for each shipment of goods or merchandise, and no payment will be issued prior to receipt of material and a correct invoice. All billing invoices shall include delivery time, purchase order number, and contractual payment terms. Items are to be identified by the name, model number, contract number, line item number, and serial number if applicable.
- 5.3. **Delivery:** All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. CONTRACTOR shall retain title and control of all goods until they are delivered and accepted by CITY. All risk of transportation and all related charges shall be the responsibility of CONTRACTOR. All claims for visible or concealed damage shall be filed by CONTRACTOR. CITY will notify CONTRACTOR promptly of any damaged goods and shall assist CONTRACTOR in arranging for inspection.
- 5.4. **Risk of Loss:** CONTRACTOR shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with CONTRACTOR regardless of receipt.
- 5.5. **Taxes:** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.
- 5.6. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless said form is not required by law.
- 5.7. **Price Adjustment (Annual).** All prices offered herein shall be firm against any increase for one (1) year from the effective date of the Contract. Prior to commencement of subsequent renewal terms, CITY will entertain a fully documented request for price adjustment. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time the Contract was executed directly correlated to the price of the product concerned.
- 5.8. **Acceptance by CITY.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.

5.9. **Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its products concurrent with a published price reduction made to other customers.

## 6. TERM:

6.1. The contract term is for a one year period, August 1, 2011 through July 31, 2012, subject to mutually agreed upon additional successive periods of a maximum twelve months per extension with a maximum aggregate including all extensions not to exceed five years. Additionally, the contract may be extended unilaterally for a period of thirty-one days or a portion thereof.

## 7. USE OF THIS CONTRACT:

7.1. CONTRACTOR is aware that there is more than one CONTRACTOR who has been awarded a Contract to provide this type of goods and materials. CITY reserves the right and will issue Purchase Orders for goods and materials based on ability of CONTRACTOR to meet CITY's schedule and/or price.

7.2. **Emergency Purchases:** CITY reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7.3. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the contracted CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at [www.maricopa.gov/materials](http://www.maricopa.gov/materials) and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

## 8. CITY'S CONTRACTUAL REMEDIES:

8.1. **Right to Assurance:** If CITY in good faith has reason to believe that CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that CONTRACTOR give a written assurance of intent to perform. Failure by CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at CITY's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. **Non-exclusive Remedies:** The rights and the remedies of CITY under this Contract are not exclusive.

8.3. **Nonconforming Tender:** Goods, materials or merchandise supplied under this Contract shall fully comply with this Contract and the specifications included herein. The delivery of goods, materials or merchandise or any portion thereof that do not fully comply constitutes a breach of contract. On delivery of nonconforming goods, materials or merchandise, CITY may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.4. **Right of Offset:** CITY shall be entitled to offset against any sums due to CONTRACTOR, any expenses or costs incurred by CITY, or damages assessed by CITY concerning CONTRACTOR's non-conforming performance or failure to perform the Contract, including costs and damages incurred by CITY.

## 9. TERMINATION:

9.1. **Termination for Convenience:** CITY 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,

CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORs to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR 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 CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

9.2. **Termination for Cause:** City may terminate this Agreement for Cause:

Upon the occurrence of any one or more of the following events:

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

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

9.4. **Cancellation for Conflict of Interest:** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of CITY is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

9.5. **Gratuities:** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by the CONTRACTOR or a representative of the CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the CONTRACTOR.

9.6. **Suspension or Debarment:** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that the CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Sub-CONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If the CONTRACTOR becomes suspended or debarred, the CONTRACTOR shall immediately notify CITY.

- 9.7. **Continuation of Performance Through Termination:** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 9.8. **No Waiver:** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 9.9. **Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.
- 10. FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

## **11. DISPUTE RESOLUTION:**

- 11.1. **Alternative Dispute Resolution.** The parties hereby agree that there shall be a sixty (60) day moratorium on litigation commencing on the day that a claim is filed by CONTRACTOR pursuant to A.R.S. § 12-821.01 during which time the parties will negotiate in good faith to resolve the dispute and evaluate the viability of pursuing alternative dispute resolution procedures such as mediation and arbitration.
- 11.2. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 11.3. **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 11.4. **Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.

- 12. INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from CONTRACTOR'S work or services. CONTRACTOR'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of CONTRACTOR, anyone directly or indirectly employed by them or anyone for

whose acts CONTRACTOR may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property.

**13. NOTICES:** All notices or demands required to be given pursuant to the terms of this Contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY	In the case of the CONTRACTOR
Department: <u>Central Supply</u>	Firm Name: <u>Brown Wholesale Electric</u>
Contact: <u>Robert Descheemaker</u>	Contact: <u>Laura Sundberg</u>
Mailing Address: <u>PO Box 4008, MS 903</u>	Address: <u>3425 E. Van Buren, Ste. 140</u>
Physical Address: <u>975 E. Armstrong Way, Bldg. I</u>	City, State, Zip <u>Phoenix, AZ 85008</u>
City, State, Zip <u>Chandler, AZ 85286</u>	Phone: <u>602-275-8521</u>
Phone: <u>480-782-2416</u>	FAX: <u>602-275-9632</u>
FAX: <u>480-782-2420</u>	EMAIL: <u>lsundberg@wesco.com</u>

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

#### **14. GENERAL TERMS:**

- 14.1. **Entire Agreement:** This Contract, including Exhibits A and B attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Contract may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 14.2. **Arizona Law:** This Contract shall be governed and interpreted according to the laws of the State of Arizona.
- 14.3. **Assignment:** Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.
- 14.4. **Amendments:** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.
- 14.5. **Conflict of Interest:**
- 14.5.1. **No Kickback:** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of City Council or any employee of CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to CITY.

**14.5.2. Kickback Termination:** CITY may cancel this Contract, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of CITY'S departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a CONTRACTOR to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from CITY is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. §38-511).

**14.5.3. No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

**14.6. Independent CONTRACTOR:** The CONTRACTOR under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

**14.7. No Parole Evidence:** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

**14.8. Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

**14.9. Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this  
\_\_\_\_\_ day of \_\_\_\_\_ 2011.

FOR THE CITY OF CHANDLER

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney



FOR THE CONTRACTOR

By: James Sundberg  
Signature

SEAL

ATTEST: If Corporation  
Stephany Kay  
Secretary

## **EXHIBIT A SPECIFICATIONS**

### **1. INTRODUCTION**

- 1.1. It is the intent of the City of Chandler to establish a pricing agreement for the order and delivery of electrical supplies on an “as needed” basis.
- 1.2. City of Chandler operates one main warehouse from which its departments purchase items.
- 1.3. City may also purchase non-stock items from Contractor’s local store on an “as needed” basis.

### **2. GENERAL SPECIFICATIONS**

- 2.1. Contractor shall maintain sufficient local parts inventory to support the City’s needs for electrical supplies.
- 2.2. In addition to the items listed on the Price Sheet, bidders may also provide a statement of applicable discount percentage off catalog prices for all other electrical supplies not listed on Price Sheet. The percentage discount offered on the Price Sheet shall also reflect the same percentage discount off catalog items.
- 2.3. Updates on reference catalogs shall be provided at no cost to the City when pricing changes. Contractors are encouraged to provide web/electronic catalog access, if applicable.
- 2.4. The quantities referenced in this agreement are an estimate ONLY and are to be used for information purposes only. No commitment of any quantity is made during this contract.

### **3. DELIVERY**

- 3.1. Contractor shall deliver all electrical supplies to Central Supply (Warehouse) located at 975 E. Armstrong Way, Bldg. I, Chandler, AZ 85286.
- 3.2. Deliveries shall be made on regularly scheduled workdays between 8:00 a.m. and 3:00 p.m., or as requested by the contract administrator.
- 3.3. Deliveries and/or pickup of supplies may also be made on weekends/off hours due to emergencies. Delivery locations may vary.

**EXHIBIT B  
PRICING**

Line Item	City Stock Number	Description	Qty	UOM	Brand/Model Quoted	Unit Cost
1	5306.730.0402	Bolt, Security, For Pull Box, Pentahead Bolt, 3/8" x 1-1/2" (T-304) Head	100	EA	Christy	\$ 2.25
2	5680.069.6312	Box, Pull, Street Light, "J Box" Part #PC1118, with Lids	30	EA	Quazite PC1118 w/ CA lid	\$ 89.00
3	5680.069.6320	Box, Pull, Traffic Signal #7, Fiberlite, FL36TBOX12, 17x30x12, without Cover	9	EA	Christy FL36T Box 12	\$ 101.00
4	5680.069.6340	Cover, Pull Box, #7, Fiberlite, FL36T with Traffic Signal On It	15	EA	Christy FL36T	\$ 97.00
5	5920.208.3030	Holder, Fuse, Waterproof, Inline, HEB-AA Bussmann, #051712-71820	300	EA	Bussmann HEB-AA	\$ 11.00
6	5920.208.4310	Fuse, 10A, KTK-10, HCLR-10 Brush	400	EA	Bussmann KT K-10	\$ 6.00
7	5931.611.0090	Photo Cell, Blue, 105-285 Volt, Electronic, Fisher Pierce #N7790B-ESS	360	EA	Fisher Price N7790B-ESS	\$ 7.90
8	5971.333.0001	Tape, Electrical, Black 3M 33+Super, 3/4" x 66'	170	RO	3M 33+	\$ 3.50
9	5975.001.0395	Cover, for 3/4" Conduit, Appl/Egs, K75	2	EA	OZ Gedney B5758	\$ 2.00
10	5975.001.0396	3/4" LB Conduit, Form 35, Malleable, LB75M	2	EA	OZ Gedney LB75	\$ 6.75
11	5975.110.4260	Conduit, IMC, 1/2"	50	FT		\$ 0.70
12	5975.850.1610	Receptacle, GFI, Ivory, 20 AMP	5	EA	Hubbell GF20I	\$ 8.50
13	5975.901.0015	Ties, Cable, .100 x 8"	1000	EA	Thomas & Betts TY5232M	\$ 0.09
14	5975.901.0020	Ties, Cable, .300 x 14"	800	EA	Thomas & Betts TY527M	\$ 0.30
15	5975.901.0025	Ties, Cable, .187 x 5.5"	1600	EA	Thomas & Betts TY525M	\$ 0.09
16	6145.105.0300	Cable, Pre-Emption, 2003-Opticom, with 3-color Coded Conductors, 1000 FT/RO Red, Orange, Blue - 20 A.W.G. = Gauge	5	RO	Lake	\$ 370.00
17	6145.107.0105	Cable, Traffic Signal, SIG 20 - conductor, 14 A.W.G., Solid Conductor, IMSA 20-1, 1000 FT/RO	4	RO	Omni or ADC or Tappan	\$ 2,210.00
18	6145.107.0120	Cable, Traffic Signal, SIG 05 - conductor, 14 A.W.G., Conductor, 1000 FT/RO	2	RO	Omni or ADC or Tappan	\$ 430.00
19	6145.107.0140	Cable, Traffic Signal, Type SIG 07 - conductor, 14 A.W.G. 07 Con. 1000', Solid, 147201S	2	RO	Omni or ADC or Tappan	\$ 550.00

Line Item	City Stock Number	Description	Qty	UOM	Brand/Model Quoted	Unit Cost
20	6145.109.0160	Cable, Video, Detection, 18 A.W.G., 6 pair, 1000 FT, Item #C6106.41.10	8	RO	Econolite	\$ 2,100.00
21	6145.205.3160	Cable, Electrical, 4-4S00W	625	FT	Carol or Omni	\$ 4.80
22	6145.205.3165	Cable, Electrical, 6-4 S00W	625	FT	Carol or Omni	\$ 3.30
23	6145.896.1005	Wire, Electrical, CU, Stranded, THHN, #10 Black, 500 FT/RO	4	RO	Service Encore Cerro	\$ 120.00
24	6145.896.1007	Wire, Electrical, CU, Stranded, THHN, #10 Brown, 500 FT/RO	8	RO	Service Encore Cerro	\$ 120.00
25	6145.896.1010	Wire, Electrical, CU, Stranded, THHN, #10, Blue, 500 FT/RO	3	RO	Service Encore Cerro	\$ 120.00
26	6145.896.1015	Wire, Electrical, CU, Stranded, THHN, #10, Gray, 500 FT/RO	2	RO	Service Encore Cerro	\$ 120.00
27	6145.896.1020	Wire, Electrical, CU, Stranded, THHN, #10, Green, 500 FT/RO	9	RO	Service Encore Cerro	\$ 120.00
28	6145.896.1050	Wire, Electrical, CU, Stranded, THHN, #10, Orange, 500 FT/RO	4	RO	Service Encore Cerro	\$ 120.00
29	6145.896.1060	Wire, Electrical, CU, Stranded, THHN, #10, Red, 500 FT/RO	3	RO	Service Encore Cerro	\$ 120.00
30	6145.896.1080	Wire, Electrical, CU, Stranded, THHN, #10, White, 500 FT/RO	4	RO	Service Encore Cerro	\$ 120.00
31	6145.896.1090	Wire, Electrical, CU, Stranded, THHN, #10, Yellow, 500 FT/RO	4	RO	Service Encore Cerro	\$ 120.00
32	6145.896.1205	Wire, Electrical, CU, Stranded, THHN, #12, Black, 500 FT/RO	9	RO	Service Encore Cerro	\$ 78.00
33	6145.896.1210	Wire, Electrical, CU, Stranded, THHN, #12, Blue, 500 FT/RO	3	RO	Service Encore Cerro	\$ 78.00
34	6145.896.1220	Wire, Electrical, CU, Stranded, THHN, #12, Green, 500 FT/RO	6	RO	Service Encore Cerro	\$ 78.00
35	6145.896.1260	Wire, Electrical, CU, Stranded, THHN, #12, Red, 500 FT/RO	2	RO	Service Encore Cerro	\$ 78.00
36	6145.896.1280	Wire, Electrical, CU, Stranded, THHN, #12, White, 500 FT/RO	4	RO	Service Encore Cerro	\$ 78.00
37	6145.896.1315	Wire, Electrical, CU, Solid, THHN, #12, Black, 500 FT/RO	8	RO	Service Encore Cerro	\$ 66.00
38	6145.896.1320	Wire, Electrical, CU, Solid, THHN, #12, Green, 500 FT/RO	4	RO	Service Encore Cerro	\$ 66.00
39	6145.896.1330	Wire, Electrical, CU, Solid, THHN, #12, White, 500 FT/RO	8	RO	Service Encore Cerro	\$ 66.00
40	6210.471.1010	Luminaire, HPS, 120V, 150W, Square Head, American Electric, #53155RN12OR2FG with Power Doors	12	EA	American 53155RN12OR2FG	\$ 249.00
41	6210.476.0010	Luminaire, Street Light, 120V, 100W, GE# M2AC10S0H2GMC22	150	EA	GE #M2AC10S0H2GMC22	\$ 129.00

Line Item	City Stock Number	Description	Qty	UOM	Brand/Model Quoted	Unit Cost
42	6210.476.0030	Luminaire, Street Light, Cut Off, 120V, 150W, GE# M2AC15S0H2GMC32	77	EA	GE M2AC15S0H2GMC32	\$ 140.00
43	6210.476.0060	Luminaire, HPS, 120V, 250W, Cobra Head, American Electric #325-OH135-DJDOA, GE# MDCL25SOA22FMC62 with Power Doors	45	EA	GE MDCL25SOA22FMC62	\$ 179.00
44	6210.476.1000	Luminaire, HPS, 120V, 100W, Square Head, American Electric #53105RN12OR2FG with Power Doors	10	EA	American 53105RN12OR2FG	\$ 249.00
45	6210.476.2050	Power Pad, 313 Series, Cut Off Lith-Amer, #315PD10SRN120	75	EA	American 315PD10SRN120	\$ 49.00
46	6210.476.3000	Luminaries, 247 Series American Revolution, #247PD 15S RN 120 RS AY	2	EA	American 247PD15SRN120 RS AY	\$ 56.00
47	6210.477.6240	Power Door, 100W HPS, 100 Luminaire, Part #GE-LTG M2AR10SOA	30	EA	GE M2AR10SOA	\$ 128.00
48	6210.477.6245	Power Door, 150W HPS, 150 Luminaire, Part #GE-LTG M2AR15SOA	24	EA	GE M2AR15SOA	\$ 131.00
49	6210.477.6250	Power Door, 250W HPS, M250 Luminaire, M2AR25SOA, 60H2, 120LV, 2.6 AMPS	8	EA	GE M2AR25SOA	\$ 147.00
50	6210.477.6290	Power Door, 250W HPS, M400 Cut Off, G.E. Lighting System #M4AR25S7M	18	EA	GE M4AR25S7M	\$ 183.00
51	6210.477.7530	Starter, Luminaire, 35-967410-51 for 35-400 Watt Cut Off	288	EA	GE 35-967410	\$ 62.00
52	6250.201.0130	Ballast, Kit, 100W, HPS, RK11510SCA120	200	EA	American RK11510SCA120	\$ 56.00
53	6250.201.0137	Ballast, Kit, 150W, HPS, RK5315SRH120	50	EA	RK5315SRH120	\$ 56.00
54	6250.201.0140	Ballast, Kit, 250W, 120V, 205-6230, (American Electric RL 125 25S-WS-158)	100	EA	American RL125-25-WS-158	\$ 98.00

**Specify percentage off list price and/or catalogs for like items not named in pricing list.  
Add additional lines as needed.**

Manufacture	Catalog No. and Date	Percent off Price List
Christy	List price available on per item basis	10%
Quazite / Hubbell	List price available on per item basis	10%
McCain Traffic	List price available on per item basis	10%
Dialight LED's	List price available on per item basis	20%
Advance	List price available on per item basis	20%
Ideal	List price available on per item basis	15%
Thomas & Betts	List price available on per item basis	20%
Myers	List price available on per item basis	10%
Tesco	List price available on per item basis	10%
Siemens	List price available on per item basis	15%
Eaton / Cutler Hammer	List price available on per item basis	15%