



**PURCHASING ITEM  
FOR  
COUNCIL AGENDA**

1. Agenda Item Number:

**24**

2. Council Meeting Date:  
January 8, 2009

TO: **MAYOR & COUNCIL**

3. Date Prepared: December 19, 2008

THROUGH: **CITY MANAGER**

4. Requesting Department: Municipal Utilities

5. **SUBJECT:** Award a one-year agreement for laboratory testing services to MWH Laboratories.

6. **RECOMMENDATION:** Recommend awarding a one-year agreement for laboratory testing services to MWH Laboratories.

7. **HISTORICAL BACKGROUND/DISCUSSION:** The Environmental Protection Agency (EPA) and the Arizona Department of Environmental Quality (ADEQ) mandate tests for drinking water and wastewater. Water Quality, Wastewater, Environmental Management and Solid Waste will use this agreement to handle various testing requirements.

8. **EVALUATION PROCESS:** On September 11, 2008 Council awarded agreements with Columbia Analytical Services, Inc., Legend Technical Services of Arizona, Inc., and Test America Laboratories, Inc. for a combined total not to exceed \$397,000. At that time, the agreement with MWH Laboratories was still in the negotiation process. Since no single laboratory can perform all of the tests required by the City, it was determined to be in the best interest of the City to award multiple agreements to ensure laboratory availability. The agreement is for one year with provisions to extend for four additional one-year periods, if mutually agreeable.

9. **FINANCIAL IMPLICATIONS:** The combined total for all laboratory testing services was approved by Council on September 11, 2008 and will not change with the award of this additional agreement.

10. **PROPOSED MOTION:** Move to award a one-year agreement for laboratory testing services to MWH Laboratories.

**APPROVALS**

11. Requesting Department

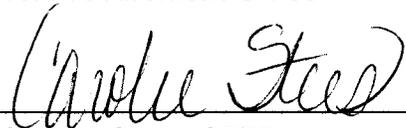
12. Department Head

  
\_\_\_\_\_  
Robert Mulvey, Assistant Municipal Utilities Director

  
\_\_\_\_\_  
Dave Siegel, Municipal Utilities Director

13. Procurement Officer

14. City Manager

  
\_\_\_\_\_  
Carolee Stees, CPPB

  
\_\_\_\_\_  
W. Mark Pentz

CITY OF CHANDLER SERVICES AGREEMENT  
LAB TESTING SERVICES  
AGREEMENT NO. MU9-962-2626

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of December, 2008, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and MWH Laboratories a division of MWH Americas, Inc., hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

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

**1. CONTRACT ADMINISTRATOR:**

- 1.1. **Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Lori McCallum, Water Quality Superintendent /designee (Contract Administrator), to provide the services required by this Agreement.
- 1.2. **Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
- 1.3. **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
- 1.4. **Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

**2. SCOPE OF WORK:** CONTRACTOR shall provide laboratory testing services all as more specifically set forth in the Scope of Work, labeled Exhibit A, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

- 2.1. **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.
- 2.2. **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
- 2.3. **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 CITY.
- 2.4. **Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.
  - 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration

laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

- 2.4.2 A breach of the Contractor Immigration Warranty (Exhibit C) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

**3. ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

- 3.1. **Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to 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.
- 3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3. **Record Retention.** CONTRACTOR shall maintain documentation of all raw and final data (electronic and hard copy and supporting quality control data for chemical results for a minimum of five (5) years with the exception of any other Federal or State requirements. Bacteriological results shall be maintained for five (5) years.
- 3.4. CONTRACTOR shall provide a copy of any requested report within two (2) business days if requested by the CITY.
- 3.5. If the CONTRACTOR can no longer maintain the data, CITY reserves the right to take delivery of all raw and final data (electronic and hard copy) and supporting quality control data for chemical results.
- 3.6. Because of the potential for litigation involved with these samples, CONTRACOTR shall retain all samples for 45 days, or until hold times have expired, whichever is longer, after the postmarked date of final analysis report. These samples shall be subject to chain of custody procedures until final

disposal. CITY reserves the right to retrieve the sample(s) during the retention time or to request an extension of the retention time, if necessary, without additional charge.

- 3.7. CONTRACTOR shall not disclose data or disseminate the contents of the final or any preliminary report without express written permission of CITY.
- 3.8. CONTRACTOR shall maintain the integrity of CITY samples at all times.
- 3.9. **Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

**4. PRICE:** CITY shall pay to CONTRACTOR for the completion of all the work and services described herein at the prices listed on attached Exhibit B. The total amount payable by the CITY to CONTRACTOR shall not exceed the sum of Four Hundred Seven Thousand Five Hundred (\$407,500). However, CONTRACTOR is aware that more than one CONTRACTOR has been awarded a laboratory testing services contract. CITY'S total budget for such services during the term of this Agreement is \$407,500 and CONTRACTOR agrees that CITY may choose to order laboratory testing services from one or more other CONTRACTORS. CITY reserves the right and will issue requests for services based on the ability of the CONTRACTOR to meet the CITY'S needs.

- 4.1. **Taxes.** CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of the CONTRACTOR'S performance of this Agreement. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by the CONTRACTOR.
- 4.2. **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice. CITY shall make payment of such invoice to CONTRACTOR within thirty (30) calendar days after receipt of CONTRACTOR'S monthly invoice.

Individual hard copy laboratory reports shall include a separate invoice that includes the following information: Invoice Number, Accession Number, Date of Invoice, Customer Number, CITY's ID, Project Name, Authorization Name, P.O. Number, LLSID Number (Project Number), Date Samples Received, Test Description with EPA Method, Quantity, Price, Surcharge, Test Total and Remit Amount.

- 4.3. **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.
- 4.4. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.5. **Annual Usage Report.** CONTRACTOR shall furnish CITY a quarterly report showing the dollar amount used against the contract and detailing the testing services requested and performed.

**5. TERM:** The term of the Contract shall commence on January 15, 2009 and terminate on September 14, 2009 unless sooner terminated in accordance with the provisions herein. CITY reserves the right, by mutual agreement of both parties, to extend the Contract for up to four (4) additional terms of one year each. CITY reserves the right, at its sole discretion, to extend the Contract for up to ninety (90) days after the expiration of any term.

5.1. The City Manager/designee is authorized to approve and execute, on behalf of the City, any such future extensions to this Contract, on the same terms and conditions.

**6. USE OF THIS CONTRACT:** CONTRACTOR is aware that there is more than one Contractor who has been awarded a Services Agreement for this type of service. CITY reserves the right and will issue requests for services based on ability of CONTRACTOR to meet CITY's work schedule and the availability of trades and expertise in relation to each project.

6.1. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the 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.

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

## **7. CITY'S CONTRACTUAL REMEDIES:**

7.1. **Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

7.2. **Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

7.3. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

7.4. **Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.

7.5. **Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.

7.6. **Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

## **8. TERMINATION:**

- 8.1. **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 subcontractor's 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.
- 8.2. **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.
- 8.3. **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 the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a contractor to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. **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 CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The 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 CONTRACTOR.
- 8.5. **Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that 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 SUBCONTRACTOR 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 CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.

- 8.6. **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.
- 8.7. **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.
- 8.8. **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.
9. **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.
10. **ALTERNATIVE DISPUTE RESOLUTION:** Notwithstanding anything to the contrary provided elsewhere in the Agreement documents, the alternate dispute resolution (ADR) process provided herein shall be the exclusive initial means for resolution of claims or disputes and other matters in question between CITY and CONTRACTOR arising out of, or relating to the Agreement documents, interpretation of the Agreement, or the performance or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to Agreements containing this ADR provision.

#### A. INTERNAL RESOLUTION PROCESS

1. **Notice:** CONTRACTOR shall submit written notice of any claim or dispute to the Purchasing Manager within thirty (30) days of the occurrence, event or disputed response from CITY for immediate resolution pursuant to these provisions. Each claim or dispute shall be submitted and resolved as they occur and not postponed until the end of the Agreement nor lumped together with other pending claims.
2. **Forfeiture:** Failure to submit a notice of any claim, dispute, or other issue within such thirty (30) days shall constitute CONTRACTOR'S forfeiture of its right to dispute the issue, raise the claim or make the request and shall also constitute CONTRACTOR'S agreement and acceptance of CITY'S position.
3. **CITY Response:** The Agreement Administrator will provide to CONTRACTOR a written response to any claim, request for clarification or dispute on or before thirty (30) days from receipt of CONTRACTOR'S written claim.
4. **Appeal:** If CONTRACTOR disagrees with the response of the Purchasing Manager, within fifteen days of the date of the response by the Agreement Administrator, CONTRACTOR shall file with the Assistant Management Services Director, written notice of appeal. The Purchasing Manager shall provide copies of all relevant information concerning the Agreement and claim or dispute to the Assistant Management Services Director who will determine the appeal. The Assistant Management Services Director may request additional information from either party,

may hold an informal informational hearing or may make the determination based on the information provided. The Assistant Management Services Director shall make a final determination of the appeal and provide written notice to CONTRACTOR within sixty (60) days from the date of CONTRACTOR'S written notice of appeal.

## **B. ARBITRATION**

- 1. Arbitration:** If CONTRACTOR is not satisfied with the determination of the Assistant Management Services Director, the following binding arbitration procedure shall serve as the exclusive method to resolve all unresolved disputes in which the claims are for \$500,000 or less except for errors of law which may be appealed if an award exceeds \$100,000 and is based on an error of law. If CONTRACTOR chooses not to accept the decision of the Assistant Management Services Director, CONTRACTOR shall notify the Agreement Administrator in writing within ten (10) business days of receipt of the Assistant Management Services Director's decision of a request for arbitration. The CONTRACTOR shall post a cash bond with the Arbitrator in the amount of \$5,000, or a greater amount as determined by the Arbitrator, that will defray the cost of the arbitration as set forth in paragraph E, Fees and Costs, and proceeds from said bond shall be allocated in accordance with said paragraph by the Arbitrator.
- 2. Arbitration Panel:** The Arbitration Panel shall consist of the arbitrators selected by the parties involved in the dispute, (i.e., CITY will select one arbitrator, CONTRACTOR will select one arbitrator, and any other CONTRACTOR who has a Agreement with CITY which contains this ADR provision and is a party to the same dispute will also select an arbitrator), and the foregoing arbitrators shall select a neutral Arbitrator who will hear the matter and make a final determination, as set forth herein.
- 3. Expedited Hearing:** The parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Arbitrator to set an expedited hearing if circumstances justify it. The Arbitrator shall contact the parties and schedule the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical, but in no event later than sixty (60) days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitrator upon a showing of emergency circumstances.
- 4. Procedure:** The Arbitrator shall conduct the hearing that will resolve disputes in a prompt, cost efficient manner giving due regard to the rights of all parties. Each party shall supply to the Arbitrator a written pre-hearing statement, which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. The Arbitrator, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to conform to such orders of the Arbitrator.
- 5. Hearing Days:** To effectuate the parties' goals, the hearing once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances.
- 6. Award:** The Arbitrator shall within ten (10) days from the conclusion of any hearing issue its award. The award shall include an allocation of fees and costs pursuant to the Binding Arbitration Procedure paragraph herein. Any award providing for deferred payment shall include

interest at the rate of ten (10%) percent per annum. The award is to be rendered in accordance with the Agreement and the laws of the State of Arizona.

7. **Scope of Award:** The Arbitrator shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitrator shall also be without authority to issue an award against any individual party in excess of \$500,000, exclusive of interest, arbitration fees, costs, and attorney's fees. If an award is made against any individual party in excess of \$50,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and statement as to how damages were calculated.
8. **Jurisdiction:** The Arbitrator shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.
9. **Entry of Judgment:** Any party can make application to the Maricopa County Superior Court for confirmation of any award and for entry of judgment on it.
10. **Severance and Joinder:** To reduce the possibility of inconsistent adjudications, the Arbitrator, may at the request of any party, join and/or sever parties, and/or claims arising under other Agreements containing this ADR provision, and the Arbitrator may, on his own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by any party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitrator is not authorized to join to the proceeding parties not in privity with CITY.

- C. **APPEAL TO MARICOPA COURTS:** Any party may appeal errors of law by the Arbitrator if, but only if, the errors arise in an award in excess of \$100,000; the exercise by the Arbitrator of any powers contrary to or inconsistent with the Agreement; or any of the grounds provided in A.R.S. 12-1512. Appeals shall be to the Maricopa County Superior Court within fifteen (15) days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this section.

- D. UNIFORM ARBITRATION ACT:** Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as enacted in Arizona in A.R.S. 12-1501, et. seq.
- E. FEES AND COSTS:** Each party shall bear its own fees and costs in connection with any internal dispute resolution procedure. All fees and costs associated with any arbitration before the Arbitrator, including without limitation, the Arbitrator's fees, the prevailing party's attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitrator.
- F. EQUITABLE LITIGATION:** Notwithstanding any other provision of ADR to the contrary, any party may petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to ongoing work pending resolution of a dispute pursuant to ADR provided for herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order or award entered by the Arbitrator. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in pursuant to the Alternative Dispute Resolution provisional of this Agreement.

**11. 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, 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. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

CONTRACTOR is obligated to comply with applicable standards of professional care in the performance of the services.

## **12. INSURANCE:**

### **12.1. Insurance Representations and Requirements:**

- A. CONTRACTOR, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
- B. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
- C. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.

- D. If any of the insurance policies are not renewed prior to expiration, payments to the CONTRACTOR may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CONTRACTOR.
- E. All insurance policies, except Workers' Compensation required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, representatives, officers, directors, officials and employees as Additional Insureds.
- F. CONTRACTOR'S insurance shall be primary insurance over any insurance available to the CITY for claims arising out of the negligence of the CITY which resulting from the performance of this contract.
- G. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CONTRACTOR'S acts, errors, mistakes, omissions, work or service.
- H. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CONTRACTOR. CONTRACTOR shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance.
- I. Certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
- J. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CONTRACTOR with reasonable promptness in accordance with the CONTRACTOR'S information and belief.

**12.2. Proof of Insurance – Certificates of Insurance**

- A. Prior to commencing work or services under this Agreement, CONTRACTOR shall furnish to CITY Certificates of Insurance, issued by CONTRACTOR'S insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler within five (5) days of the expiration date.
- C. All Certificates of Insurance shall identify the policies in effect on behalf of CONTRACTOR, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D. CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CONTRACTOR of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONTRACTOR from, or be deemed a waiver of CITY'S right to insist on, strict fulfillment of CONTRACTOR'S obligations under this Agreement.

**12.3. Coverage**

- A. Such insurance shall protect CONTRACTOR from claims set forth below which may arise out of or result from the operations of CONTRACTOR under this Contract and for which CONTRACTOR may be legally liable, whether such operations be by the CONTRACTOR or by a SUBCONTRACTOR by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
- B. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- C. Claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR'S employees;
- D. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONTRACTOR'S employees;
- E. Claims for damages insured by usual personal injury liability coverage;
- F. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting there from;
- G. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "I" "any auto" policy form CA00011293 or equivalent thereof.
- H. Claims for bodily injury or property damage arising out of completed operations;
- I. Claims for injury or damages in connection with one's professional services;
- J. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included.

**12.4. Commercial General Liability - Minimum Coverage Limits.**

The Commercial General Liability insurance required herein shall be written for not less than \$500,000 limits of liability. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CONTRACTOR'S operations and products, and completed operations.

**12.5. Automobile Liability**

CONTRACTOR shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CONTRACTOR'S work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

**12.6. Worker's Compensation and Employer's Liability**

CONTRACTOR shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONTRACTOR'S employees engaged in the

performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, CONTRACTOR will require the SUBCONTRACTOR to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CONTRACTOR.

**12.7 Professional Liability.**

CONTRACTOR shall maintain Professional Liability insurance for not less than \$1,000,000 in limits of liability.

**13. NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement 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 the CITY	In the case of the CONTRACTOR
Contract Administrator: <u>City of Chandler</u>	Firm Name: <u>MWH Laboratories</u>
Contact: <u>Lori McCallum</u>	Contact: <u>Managing Director</u>
Mailing Address: <u>PO Box 4008 MS 803</u>	Address: <u>15953 N. Greenway-Hayden Loop #C</u>
Physical Address: <u>1475 E. Pecos Road</u>	City, State, Zip: <u>Scottsdale, AZ 85260</u>
City, State, Zip: <u>Chandler, AZ 85244-4008</u>	Phone: <u>480-778-1558</u>
Phone: <u>480-782-3730</u>	FAX: <u>626-386-1101</u>
FAX: <u>480-782-3640</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. CONFLICT OF INTEREST:**

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the 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 the CITY.
- 14.2. **Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3. **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.

**15. GENERAL TERMS:**

- 15.1. Entire Agreement.** This Agreement, including Exhibits A, B and C 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 Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.2. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.3. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.4. 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 the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any 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 such changes.
- 15.5. 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.
- 15.6. 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.
- 15.7. Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this day of December 2008.

FOR THE CITY OF CHANDLER

\_\_\_\_\_  
MAYOR

ATTEST:

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

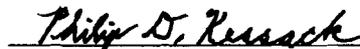
Approved as to form:

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

FOR THE CONTRACTOR

By:   
Mona E. Altieri, V.P.  
Managing Director  
ATTEST: If Corporation

SEAL

  
\_\_\_\_\_  
Secretary

## EXHIBIT A

### TECHNICAL SPECIFICATIONS

In order to conduct environmental testing and analysis as requested by CITY for purposes of compliance with the National Pollutant Discharge Elimination System, Safe Drinking Water Act, Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, Hazardous Waste, State Aquifer Protection Permits, Reuse Permits, Industrial Pretreatment Program, special projects and for EPA compliance with participation in Unregulated Contaminant Monitoring Rule 2, CONTRACTOR shall provide the following services as specified below:

#### 1. Sample Containers

CONTRACTOR shall provide all the necessary new or certified-clean sample bottles and sample labels as required to perform field sampling. CONTRACTOR shall add reagent grade preservatives to the appropriate sampling container prior to field sampling. CONTRACTOR shall pre-label sample containers identifying the analyses types requested and preservatives used. The sample label information provided by CITY shall correspond to information contained in the chain of custody forms and shall include: CONTRACTOR name, the analyses requested, the sample ID number, the date and time the sample was taken, the location of field sampling, and the name or initials of the sampler. CONTRACTOR shall supply any necessary trip blanks. CONTRACTOR shall subject all supply bottles and/or containers to a Quality Assurance and Quality Control program and shall conduct a testing program on sample bottles and/or containers.

#### 2. Chain of Custody

CONTRACTOR shall provide chain of custody forms and chain of custody seals for bottles and coolers and one chain of custody form shall accompany each sample set. CONTRACTOR shall include a copy of the completed chain of custody for each sample set at the end of each individual analyses report. CONTRACTOR and any and all city approved subcontractors shall utilize standard U.S. EPA chain of custody procedures, as documented in National Enforcement Investigations Center Policies and Procedures Manual, as revised in May, 1986, and amendments thereto, and the National Enforcement Investigations Center Manual For The Evidence Audit, published in September, 1981, and amendments thereto.

#### 3. Transportation

CONTRACTOR shall provide for delivery of sample sets and pickup of field samples to and from CITY. CONTRACTOR shall pick up field samples as needed, but generally between 7:00 a.m. and 5:00 p.m., Monday through Friday. The Contractor shall pick up most samples within six (6) hours of CITY's request. CONTRACTOR shall pick up fecal coliform samples within two (2) hours of CITY's request. CONTRACTOR shall deliver sample bottles no later than forty-eight (48) hours after CITY's request. CONTRACTOR shall provide all necessary shipping containers. CONTRACTOR shall provide wet ice to cool samples upon request.

#### 4. Sample Control

CONTRACTOR shall report any sample or trip blank received in unacceptable condition, or rendered unacceptable for analyses to the CITY Contract Administrator or their designee within forty-eight (48) hours of loss of sample.

CITY reserves the right to recover cost of re-sampling due to CONTRACTOR error or failure to maintain sample integrity. Re-sampling required due to error or failure to maintain sample integrity at the laboratory shall be billed to CONTRACTOR at the CITY's cost plus \$100. Trip blanks rendered unacceptable while in the possession of the laboratory shall result in a fifty percent (50%) reduction in the analysis fee for the accompanying field samples.

## **5. Laboratory Services and Analytical Requirements**

CONTRACTOR shall use current and future Federal and Arizona Department of Health Services approved test methods for 1) drinking water, 2) hazardous waste, 3) wastewater, and 4) air and stack parameters (40CFR136, SW-846 and R18-11-111 analytical methods) for all analyses. CONTRACTOR shall meet detection limits required by Local, State, and Federal regulations.

CONTRACTOR shall conduct all quality control tests and checks for precision, accuracy and control of method on a ten percent (10%) basis, or as specified by method, or per batch if less than ten (10) samples are submitted. CONTRACTOR and any subcontractors shall use CITY of CHANDLER samples designated for QC for duplicate, trip blank, and matrix spike purposes. CONTRACTOR shall provide as part of the quality control all QC data results as a Level 2 report.

CONTRACTOR shall communicate a full description of any anticipated or realized problem areas to the CITY's Contract Administrator or designee prior to analysis of any sample so that appropriate corrective action can be coordinated. CONTRACTOR shall immediately communicate, via telephone or fax, analytical or sample problems encountered subsequent to the analysis of any sample to the CITY's Contract Administrator or designee, followed by written communication with the sample results. CONTRACTOR shall immediately communicate, via telephone or fax, results indicating exceedance of SDWA MCL's and/or triggers and/or Permits limits to the CITY Contract Administrator or designee, followed by written communication with the sample results. CONTRACTOR shall designate all verbal and written notification about results that are not final as "preliminary" and document QA/QC issues as appropriate. Samples analyzed outside of the specified QA/QC without prior consent by CITY shall not be invoiced and paid under this Agreement.

## **6. Holding Times**

The CONTRACTOR shall notify the CITY Contract Administrator or designee immediately on discovery that holding time(s) have been exceeded so that re-sampling can take place. The CITY will make a decision on analysis of such samples upon notification. CITY reserves the right to recover cost of resampling due to CONTRACTOR failing to meet sample holding times, provided that CONTRACTOR has had possession of the sample for at least 50% of the sample holding time. The exception to this would be in the case of coliform samples where CONTRACTOR will only be liable if CONTRACTOR was not notified of sample pick up within two hours of the time of the sampling. Re-sampling will be billed to CONTRACTOR at the CITY's cost plus \$100.

## **7. Written Reporting of Analysis Results**

CONTRACTOR shall submit typewritten final reports for drinking water sample results to the CITY Contract Administrator or their designee within twenty (20) calendar days of CONTRACTOR'S receipt of each sample.

CONTRACTOR shall submit typewritten final reports for lakes, storm water, wastewater, and hazardous waste sample results to the CITY Contract Administrator or their designee within twenty (20) calendar days of CONTRACTOR'S receipt of each sample.

CONTRACTOR shall submit typewritten final reports for air sample results to the CITY Contract Administrator or their designee within five (5) calendar days of CONTRACTOR'S receipt of each sample. At times rush analysis of three (3) days and twenty-four (24) hours will be required.

CONTRACTOR shall submit typewritten final reports for any rush results to the CITY Contract Administrator or their designee within two (2) working days of due date of the rush results.

CONTRACTOR shall report all quality control tests and checks used to prepare each sample, including all reporting levels, method references, date of sample receipt, date of analysis, dilutions, duplicates and matrix spike results, blanks, MS/MSD, reagent blank and trip blank results for each applicable constitute requested.

Contractor shall insure that all subcontracted results are easily cross-referenced to samples submitted to CONTRACTOR and at a minimum, shall include the following:

- a. Cover letter, including a listing of any subcontractors used and any problems encountered during sample analysis.
- b. Analysis results including all QA/QC, compounds analyzed, method reporting levels, date of analysis, analyst, and analysis method.
- c. Original subcontractor analysis results including all QA/QC, compounds analyzed, method detection limits, and analysis method.
- d. Chain of custody as submitted, plus subcontractor's chain of custody, if applicable.
- e. Data from analyses of samples collected for compliance with the Safe Drinking Water Act and under the applicable Arizona Department of Environmental Quality (ADEQ) Drinking Water rules shall be submitted on the appropriate ADEQ forms (these forms shall be completed in full) in addition to CONTRACTOR's standard reporting form.

CONTRACTOR shall be responsible for a written communication of any miscalculation or error in analytical results to the CITY Contract Administrator or their designee. CONTRACTOR shall reissue, at their own expense, corrected hard copies and computer electronic copies as necessary. CONTRACTOR shall label all reissued reports "revised" and include an explanation of the revision in the cover letter. These errors include, but are not limited to; operator error, equipment malfunction, exceeding holding time, out of control results or any other quality control exception, and laboratory contamination in ambient air, glassware, standards, reagents, or equipment that could impact the quality or validity of the analytical results. CITY reserves the right to recover the cost of re-sampling due to CONTRACTOR miscalculation or error in the analytical results.

CITY reserves the right to enforce penalties for late sample results. An eight percent (8%) penalty for the first day and a five percent (5%) penalty each day thereafter per report will be charged to CONTRACTOR for each calendar day that delivery of the written report(s) and/or electronic data exceed the above specified delivery times. CONTRACTOR shall be liable for penalties for all late analyses, including subcontracted analyses. Fines or penalties levied against CITY by the State or Federal government due to late submittal of analysis results due to CONTRACTOR exceeding the above specified delivery times, shall be paid by CONTRACTOR.

#### **8. Electronic Transfer of Reporting Results**

CONTRACTOR shall issue electronically when needed, laboratory results to CITY with the hard copy reports. The submittal of electronic data is not intended to be a substitute for the requirement of hard copy reports.

CONTRACTOR shall supply the electronic data in a format compatible with existing CITY software as desired by CITY.

CONTRACTOR shall be responsible for verification that electronic data is not duplicated. CONTRACTOR shall maintain an electronic or a hard copy list of sample reports issued for review by CITY. This list shall include the CITY Chain of Custody ID Number (Chandler ID), the laboratory accession number (Accession ID), and the date sample data was issued. Should duplicate data be received, the cost to remove the

uplicated data will be calculated using the applicable charge out rate. Any charge for this duplicate removal will be used as a credit toward the laboratory invoices issued by the CONTRACTOR at the CITYs cost plus \$100.

**9. Contractor Capability and Capacity**

During the term of this Contract, CONTRACTOR shall maintain the necessary capability and capacity to provide the specified laboratory services within the required turnaround times. CONTRACTOR and any subcontractors shall provide access for CITY and State personnel and their authorized representatives to audit the lab to assure the accuracy and precision of laboratory results related to the work performed.

**10. State of Arizona Certification/Environmental Protection Agency Approvals**

CONTRACTOR and all subcontractors must be licensed by the State of Arizona, Arizona Department of Health Services (ADHS), Office of Lab Licensure or Environmental Protection Agency (EPA), for all requested analyses for the duration of the Contract. CONTRACTOR shall meet the laboratory licensure requirements as stipulated in the Arizona Revised Statute Chapter 4.3, Article One, Section 36-495 et. Reg. or EPA.

CONTRACTOR shall provide to CITY notification of any change of license status, censure, fine, revocation, or any investigation by any certification agency, especially the ADHS or EPA, within 24 hours of notification.

**11. EPA/ADHS Quality Assurance/Quality Control**

CONTRACTOR and all subcontractors must demonstrate continuing satisfactory performance by proficiency testing. [Formerly water pollution (WP) and water supply (WS) check samples.]

**12. Proficiency Samples**

CITY may submit proficiency samples (blind, double blind, or otherwise) to the CONTRACTOR as part of the regular sampling and QC procedures.

CONTRACTOR shall submit a QA/QC report on deficiencies and corrections associated with the proficiency samples on an individual sampling period basis.

CONTRACTOR may be required to analyze a second set of proficiency samples at their cost should they fail to analyze the initial set within acceptable QA/QC limits.

Failure of the CONTRACTOR to analyze and report results within acceptable QA/QC limits can result in cancellation of this contract.

**13. Disposal**

CONTRACTOR shall comply with all Federal, State, and local regulations for disposal of samples and associated laboratory hazardous waste.

**EXHIBIT B  
PRICE LIST**

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>A.</b>	<b><u>DRINKING WATER</u></b>			
<b>1.</b>	<b>Microbiology</b>			
	Total coliform	25		
	Multiple Tube	25	SM9221B	MWH
	Membrane Filter	25	SM9221B	MWH
	Colilert	25	SM9223B	MWH
	Colisure			
	Presence-Absence	25	SM9223E	MWH
	Heterotrophic Plate Count	30	SM9215B	MWH
	Escherichia Coli	25	SM9223B	MWH
	Fecal coliform	25	SM9221C	MWH
	Viruses	750	SM9510	Legend
	Giardia and Cryptosporidium	450	EPA 1623	CHD

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>2.</b>	<b>Sample prep for metals</b>	25 first metal/10 each additional	EPA 3005-3015	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>3.</b>	<b>Inorganic Chemical and Physical Characteristics</b>			
	Alkalinity	15	SM2320B	MWH
	Asbestos	150	EPA 100.2	MWH
	Bromate	60	EPA 317	MWH
	Bromide	25	EPA 300.1B	MWH
	Chloride	15	EPA 300.0A	MWH
	Chlorine	15	SM4500CL-G	MWH
	Chlorine Dioxide	15	SM4500CL-G	MWH
	Chlorite	50	EPA 300.1B	MWH
	Color	10	SM2120B	MWH
	Corrosivity	10	SM2330B	MWH
	Cyanide	40	SM4500 CN F	MWH
	Cyanide, Amenable	60	EPA 335.1	MWH
	Fluoride	20	SM4500F C	MWH
	Hardness	15	SM2340B	MWH
	Methylene Blue Active Substances	15	SM5540C	MWH
	Nitrate (Calculation)	15	EPA 300.0A	MWH
	Nitrite	15	EPA 300.0A	MWH
	Ortho-Phosphate	20	SM4500P-E	MWH
	Ozone			
	pH	10	EPA 150.1	MWH
	TDS	15	SM2540C	MWH
	Specific Conductance	10	SM2510B	MWH
	Sulfate	15	EPA 300.0A	MWH

	TOC	25	SM5310C	MWH
	Turbidity	10	EPA 180.1	MWH
	UV254	40	SM5910B	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>4.</b>	<b>Metals</b>			
	Metals (ICP) (price per metal)	10	EPA 200.7	MWH
	Metals (ICP-MS) (price per metal)	10	EPA 200.8	MWH
	Metals (GFAA) Aluminum, Antimony, Arsenic, Barium, Beryllium, Cadmium, Calcium, Chromium, Copper, Iron, Lead, Magnesium, Manganese, Molybdenum, Nickel, Selenium, Silica, Silver, Sodium, Strontium, Thallium, Uranium, Zinc	120	EPA 200.7/200.8	MWH
	Mercury	25	EPA 245.1	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>5.</b>	<b>Organic Chemicals</b>			
	Total Trihalomethanes	65	EPA 524.2/551	MWH
	Volatile Organics	100	EPA 524.2	MWH
	Chlorinated Pesticides	90	EPA 505	MWH
	PCB	90	EPA 505	MWH
	Herbicides	120	EPA 515.4	MWH
	EDB/ DBCP	65	EPA 504.1	MWH
	Nitrogen and Phosphorus Pesticides	200	EPA 525.2	MWH
	Base/Neutrals and Acids	200	EPA 525.2	MWH
	Carbamates	110	EPA 531.2	MWH
	Dioxins only	275	EPA 1613	Pace
	Glyphosate	110	EPA 547	MWH
	Endothall	110	EPA 548.1	MWH
	Diquat and Paraquat	110	EPA 549.2	MWH
	PAH	200	EPA 525.2	MWH
	DBPs and Chlorinated Solvents	400	EPA 551.1/505/504/525	MWH
	HAAs	100	SM6251B	MWH
	Phthalate Esters and Adipates	200	EPA 525.2	MWH
	Benzidines and Nitrogen Pesticides			
	Carbonyl Compounds			
	Chlorinated Acids	120	EPA 515.4	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>6.</b>	<b>Radiochemistry</b>			

	Gross Alpha	60	EPA 900	MWH
	Gross Beta	60	EPA 900	MWH
	Radium 226	100	EPA 903.1	Rad. Safety
	Radium 228	100	EPA 904	MWH
	Total Radium	190	EPA903/904	Rad. Safety
	Cesium			
	Iodine	90	EPA 901.1	Rad. Safety
	Strontium	150	EPA 905.0	Rad. Safety
	Tritium	90	EPA 906.0	Rad. Safety
	Uranium	125	EPA 200.8/908.1	MWH
	Gamma Emitting Isotopes	150	EPA 901.1	Rad. Safety

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>7.</b>	<b>Biological</b>			
	Microscopic Particulate Analysis	250	EPA 1992	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>8.</b>	<b>Other Drinking Water Methods</b>			
	Ion Chromatography (Fluoride, Chloride, Nitrate, Nitrite, O-Phosphate, Sulfate) (Per ion price and group price)	80 per group 20 per ion	Various	MWH
	Radon 222	50	SM7500RN	

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>9.</b>	<b>UCMR 2 Assessment Monitoring</b>			
	527	175	EPA 527	MWH
	529	175	EPA 529	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>10.</b>	<b>UCMR 2 Screening survey</b>			
	535	275	EPA 535	MWH
	525.2	175	EPA 525.2	MWH
	521	300	EPA 521	MWH

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>B.</b>	<b>WASTEWATER</b>			
<b>1.</b>	<b>Microbiology</b>			
	Fecal coliform			
	Multiple Tube Fermentation			
	Membrane Filter			
	Total Coliform			
	Multi Tube Fermentation			
	Membrane Filter			
	Fecal Streptococcus			
	Multi Tube Fermentation			

	Membrane Filter			
	Viruses			
	Giardia and Cryptosporidium			
	Ascaris lumbricoides			
	Common tapeworm			
	Entamoeba histolytica			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
2.	<b>Inorganic Chemicals, Nutrients and Demand</b>			
	Acidity			
	Alkalinity			
	Ammonia			
	BOD			
	Bromide			
	COD			
	Chloride			
	Chlorine			
	Chromium Hexavalent			
	Color			
	Cyanide (amenable)			
	Cyanide (available)			
	Cyanide (total)			
	Fluoride			
	Hardness			
	TKN			
	MBAS			
	Nitrate			
	Nitrite			
	Oil and Grease			
	TOC			
	Ortho-Phosphate			
	Oxygen, dissolved			
	PH			
	Phenols			
	Phosphorus (total)			
	Residue (total)			
	TDS			
	TSS			
	Settleable Solids			
	Residue, Volatile (total)			
	Silica			
	Sodium Azide			
	Specific Conductance			
	Sulfate			
	Dissolved Sulfide			
	Sulfide			
	Dissolved Sulfite			
	Sulfite			
	Turbidity			

Item	Parameter	Routine Cost	EPA Method	Lab Doing
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				Analysis
<b>3.</b>	<b>Metals</b>			
	Metals (ICP)			
	Metals (ICP-MS)			
	Metals (GFAA) Aluminum, Antimony, Arsenic, Barium, Beryllium, Boron, Cadmium, Calcium, Chromium, Cobalt, Copper, Iron, Lead, Lithium, Magnesium, Manganese, Molybdenum, Nickel, Potassium, Selenium, Silica, Silver, Sodium, Strontium, Thallium, Tin, Vanadium, Zinc			
	TCLP8 RCRA Metals			
	Gold			
	Iridium			
	Mercury			
	Osmium			
	Palladium			
	Platinum			
	Rhodium			
	Ruthenium			
	Titanium			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>4.</b>	<b>Bioassay</b>			
	Toxicity			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>5.</b>	<b>Organic Chemical</b>			
	Volatile organics GC/MS (624) (Per group price)			
	Volatile organics GC/MS (8260) (Per group price)			
	Acrolein, Acrylonitrile and 2 CEVE			
	Semivolatile			
	Phenols			
	Benzidines			
	Phthalate Esters			
	Nitrosamines			
	Organochlorine Pesticides and PCBs (608)			
	Nitroaromatics and Isophorone			
	PAH			
	Haloethers (5 compounds)			
	Chlorinated Hydrocarbons			
	2,3,7,8,TCDD (Dioxin)			
	625 Dioxin Screen			
	Tetra through Octa Chlorinated			

	Dioxins and Furans			
	Triazine Pesticides			
	Base/Neutral and Acids (625 or 1625)			
	Carbamates and Urea Pesticides			
	TPH			
	Ethylene Glycol			
	Organophosphorus Pesticides			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>6.</b>	<b>Radio Chemistry</b>			
	Gross Alpha			
	Gross Beta			
	Gross Alpha/Gross Beta			
	Total Radium			
	Radium 226			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>7.</b>	<b>Other Wastewater Tests</b>			
	Ion Chromatography (Fluoride, Chloride, Nitrate, Nitrite, O-Phosphate*, Sulfate)			
	1657			
	PCB's only			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>C.</b>	<b>HAZARDOUS WASTE</b>			
<b>1.</b>	<b>Microbiology</b>			
	Total Coliforms			
	Multiple Tube Fermentation			
	Membrane Filter			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>2.</b>	<b>Hazardous Waste Characteristics</b>			
	Corrosivity			
	PH determination			
	Ignitability			
	Reactivity			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
<b>3.</b>	<b>Sample Extraction Procedures</b>			
	TCLP 1311			
	1311 ZHE			
	SPLP 1312			
	SPLP ZHE			
	Specific conductance			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
4.	Sample Prep for Metals			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
5.	<b>Inorganic Chemical</b>			
	Metals (ICP)			
	Metals (ICP-MS)			
	Metals (GFAA) Aluminum, Antimony, Arsenic, Barium, Beryllium, Cadmium, Calcium, Chromium, Cobalt, Copper, Iron, Lead, Lithium, Magnesium, Manganese, Molybdenum, Nickel, Osmium, Potassium, Selenium, Silver, Sodium, Strontium, Thallium, Tin, Vanadium, Zinc			
	Chromium Hexavalent			
	Mercury			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
6.	Sample Preparation and Extraction			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
7.	Sample Cleanup			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
8.	<b>Organic Chemicals (includes extraction)</b>			
	EDB and DBCP			
	Nonhalogenated Volatile Organics			
	Volatile Organics			
	Organochlorine Pesticides			
	PCB's			
	PCB's in oil			
	PAH			
	Semivolatile			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
9.	<b>Miscellaneous</b>			
	Cyanide			
	TOX			
	Sulfides			
	Sulfate			
	pH			
	Specific Conductance			

	TOC			
	Phenolics			
	Oil and Grease			
	Nitrate			
	Nitrite			
	Chloride			
	Bromide			
	Fluoride			
	Paint filter			
	Ortho Phosphate			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
10.	<b>Asbestos</b>			
	Fiber Counting			
	Bulk Asbestos			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
11.	<b>Radiochemical</b>			
	Gross Alpha and Beta			
	Alpha-Emitting Radium Isotopes			
	Radium-228			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
12.	<b>Other</b>			
	Ion Chromatography (Chloride, Nitrate, Nitrite, o-Phosphate, Sulfate)			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
D.	<b><u>AIR AND STACK PARAMETERS</u></b>			
	Volatiles (includes TCE, PCE, 1,1-DCE, 1,1,1-TCA and Chloroform)			

Item	Parameter	Routine Cost	EPA Method	Lab Doing Analysis
E.	<b><u>MISCELLANEOUS</u></b>			
	Algae Identification	125	SM 10200	MWH
	Flash Point (ignitability)			
	MIB/Geosmin	225	SM6040D mod	MWH
	NDMA	300	EPA 521	MWH
	Endocrine disruptors	1300		

Surcharge for Priority Plus Analysis (<24 hours): 200%

Surcharge for Priority Analysis (<24 hours):	3x fees
Surcharge for Priority Analysis (24 hours):	2x fees
Surcharge for Priority Analysis (48 hours):	1.75x fees
Surcharge for Priority Analysis (72 hours):	1.5x fees
Surcharge for Priority Analysis (72 hours - 5 day):	1.5x fees
Surcharge for Priority Analysis (5 day - 7 day):	1.5x fees
Discount off list price for services not referenced on price sheets:	20%
Payment Terms:	Net 30

**EXHIBIT C**

**Contractor Immigration Warranty  
To Be Completed by Contractor Prior to Execution of Contract**

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

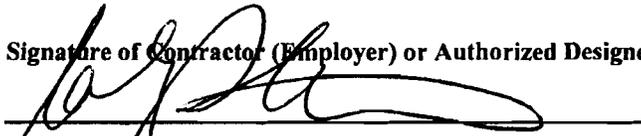
By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

<b>Contract Number: MU9-962-2626</b>		
<b>Name (as listed in the contract): MWH Laboratories a division of MWH Americas, Inc.</b>		
<b>Street Name and Number: 15953 N. Greenway-Hayden Loop #C</b>		
<b>City: Scottsdale</b>	<b>State: AZ</b>	<b>Zip Code: 85260</b>

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:



Printed Name: Mona E. Altieri

Title: V.P., Managing Director

Date (month/day/year): December 17, 2008