

CITY OF GLENDALE  
ORIGINAL

C-11126  
08/25/2016

LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
POTTERS INDUSTRIES, LLC

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this 25<sup>th</sup> day of , 20 , between the City of Glendale, an Arizona municipal corporation (the "City"), and Potters Industries, LLC, a Delaware limited liability company, authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On October 29, 2012, under the Arizona State Cooperative Purchasing Agreement, the State of Arizona entered into a contract with Contractor to purchase the goods and services described in the Glass Beads for Pavement Marking Materials Contract, Solicitation No. ADSP013-034726 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. **Term of Agreement.** The City is purchasing the supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement purchases can be made by governmental entities from the date of award, which was October 29, 2012, until the date the contract expires on October 27, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond October 27, 2017. The initial period of this

Agreement, therefore, is the period from the Effective Date of this Agreement until October 27, 2016. The City Manager or designee, however, may renew the term of this Agreement for \$12,500 for one, one-year period until the Cooperative Purchasing Agreement expires on October 27, 2017. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed twelve thousand five hundred dollars (\$12,500) annually or twenty-five thousand dollars (\$25,000) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Israel Boycott. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. A.M.  
B.

**Notices.** Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Greg Wheeler  
Traffic Engineering Supervisor  
6210 West Myrtle, Suite 111  
Glendale, Arizona 8530  
623-930-2950

and

Potters Industries, LLC  
c/o Yvonne Harris  
610-651-4714  
PO Box 841  
Valley Forge, PA 19482-0841

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

"Contractor"

City of Glendale, an Arizona  
municipal corporation

Potters Industries, LLC,  
a Delaware limited liability company

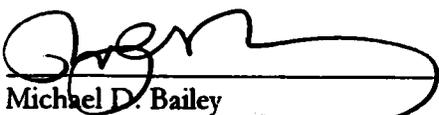
By:   
Kevin Phelps  
City Manager

By:   
Name: Yvonne Harris  
Title: Contract Administrator

ATTEST:

  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

  
Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
POTTERS INDUSTRIES, LLC**

**EXHIBIT A  
GLASS BEADS FOR PAVEMENT MARKINGS MATERIALS,  
CONTRACT NO. ADSP013-034726**

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
POTTERS INDUSTRIES, LLC**

**EXHIBIT B  
Scope of Work**

**PROJECT**

The City of Glendale is securing a contract for the purchase of glass beads for pavement markings materials.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
POTTERS INDUSTRIES, LLC**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

Method and amount of compensation is in accordance to Section 3 of this Agreement.

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$12,500 annually or \$25,000 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

City shall pay Contractor compensation in accordance with the rates set forth in the State of Arizona Contract No. ADSPO13-034726.



**Master Blanket Purchase Order ADSP013-034726**

**Header Information**

<b>Purchase Order Number:</b>	ADSP013-034726	<b>Release Number:</b>	0	<b>Short Description:</b>	Glass Beads for Pavement Marking Materials, Statewide
<b>Status:</b>	3PS - Sent	<b>Purchaser:</b>	Jodie Neff	<b>Receipt Method:</b>	Quantity
<b>Fiscal Year:</b>	2013	<b>PO Type:</b>	Blanket	<b>Minor Status:</b>	
<b>Organization:</b>	State of Arizona	<b>Location:</b>	STRGC - SPO Strategic	<b>Type Code:</b>	Statewide
<b>Department:</b>	ADSP0 - State Procurement Office	<b>Entered Date:</b>	10/23/2012 04:16:02 PM	<b>Control Code:</b>	
<b>Alternate ID:</b>		<b>Retainage %:</b>	0.00%	<b>Discount %:</b>	0.00%
<b>Days ARO:</b>	28	<b>Print Dest Detail:</b>	If Different	<b>Release Type:</b>	Direct Release
<b>Catalog ID:</b>		<b>Contact Instructions:</b>	Jodie.Neff@azdoa.gov or 602-542-0036	<b>Pcard Enabled:</b>	No
<b>Master Blanket/Contract End Date (Maximum):</b>	10/28/2017 08:31:00 AM	<b>Tax Rate:</b>		<b>Actual Cost:</b>	\$0.00

**Master Blanket/Contract End Date (Maximum):** 10/28/2017 08:31:00 AM

*2 yrs.  
\$ 12,500 /annually*

**Project No.:**  
**Building Code:**  
**Cost Code:**  
**Special Purchase Types:**  
**PIJ NUMBER:**  
**Coop Spend To Date:**  
**Commodity Reference Id:**

**PO External Doc Type:**

**Agency Attachments:** PO Terms & Conditions - OLD Solicitation No. ADSP013-00002254.zip Contract No. ADSP013-034726-1.zip Change Order No 2-1.pdf Potters Industries COI - Expires 12.15.14.pdf Change Order 03 ADSP013-034726 - Contract Extension-1.pdf Potters Industries COI - Expires 12.15.15.pdf Contract Amendment COI

**Vendor Attachments:**

**Agency Attachment Forms:**

**Vendor Attachment Forms:**

**Primary Vendor Information & PO Terms**

**Vendor:** 000000713 - POTTERS INDUSTRIES INC  
 Yvonne Harris  
 P.O. Box 840  
 Valley Forge, PA 19482  
 US  
 Email: yvonne.harris@pottersbeads.com  
 Phone: (610)651-4714

**Payment Terms:** Net 30  
**Shipping Method:** Best Way  
**Shipping Terms:** F.O.B., Destination  
**Freight Terms:** Freight Prepaid

**PO Acknowledgements:**

Commitment	Alt Reference	Notifications	Acknowledged Date/Time
Purchase Order		Emailed to yvonne.harris@pottersbeads.com at 10/29/2012 08:33:19 AM	11/02/2012 05:48:01 AM
Change Order 1		Emailed to yvonne.harris@pottersbeads.com at 11/08/2012 02:49:50 PM	
Change Order 2		Emailed to yvonne.harris@pottersbeads.com at 08/26/2013 09:44:09 AM	08/26/2013 11:37:38 AM

**Master Blanket/Contract Vendor Distributor List**

Vendor ID	Alternative ID	Vendor Name	Preferred Delivery Method	Vendor Distributor Status
000000713	PZ000000713	POTTERS INDUSTRIES INC	Email	Active

**Master Blanket/Contract Controls**

**Master Blanket/Contract Begin Date:** 10/29/2012 **Master Blanket/Contract End Date:** 10/27/2016  
**Cooperative Purchasing Allowed:** Yes

Organization	Department	Dollar Limit	Dollars Spent to Date	Minimum Order Amount
ALL ORG - Organization Umbrella Master Control	AGY - Agency Umbrella Master Control	\$0.00	\$414,036.06	\$0.00

**Item Information**

1-5 of 25  
 1 2 3 4 5

<b>Print Sequence # 1.0, Item # 1:</b> Glass Bead Item 1: ADOT Standard Specification Section 708 Glass Bead, 50 lb Bag								3PS - Sent
NIGP Code: <u>550-04</u> Beads, Glass, Sign and Stripe								
Bid # / Bid Item #: <u>ADSP013-00002254 / 1</u> Quote # / Quote Item #: <u>000015214 / 1</u>								
Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost

Quantity	0.0	\$14.395	EACH - Each	0.00	\$0.00	\$0.00	\$0.00
Manufacturer:		Brand:		Model:			
Make:		Packaging:					
Project No.:							
Building Code:							
Cost Code:							
Property Number:							

**Print Sequence # 2.0, Item # 2:** Glass Bead Item 1: ADOT Standard Specification Section 708 Glass Bead, 550 lb Cardboard Tote 3PS - Sent

NIGP Code: 550-04  
Beads, Glass, Sign and Stripe

Bid # / Bid Item #: ADSP013-00002254 / 2 Quote # / Quote Item #: 000015214 / 2

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$180.345	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer:		Brand:		Model:			
Make:		Packaging:					
Project No.:							
Building Code:							
Cost Code:							
Property Number:							

**Print Sequence # 3.0, Item # 3:** Glass Bead Item 1: ADOT Standard Specification Section 708 Glass Bead, 2,000 lbs Tri-Wall Tote 3PS - Sent

NIGP Code: 550-04  
Beads, Glass, Sign and Stripe

Bid # / Bid Item #: ADSP013-00002254 / 3 Quote # / Quote Item #: 000015214 / 3

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$575.80	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer:		Brand:		Model:			
Make:		Packaging:					
Project No.:							
Building Code:							
Cost Code:							
Property Number:							

**Print Sequence # 4.0, Item # 4:** Glass Bead Item 1: ADOT Standard Specification Section 708 Glass Bead, 2,400 lbs Super Sack 3PS - Sent

NIGP Code: 550-04  
Beads, Glass, Sign and Stripe

Bid # / Bid Item #: ADSP013-00002254 / 4 Quote # / Quote Item #: 000015214 / 4

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$690.96	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: \_\_\_\_\_ Brand: \_\_\_\_\_ Model: \_\_\_\_\_  
 Make: \_\_\_\_\_ Packaging: \_\_\_\_\_  
 Project No.: \_\_\_\_\_  
 Building Code: \_\_\_\_\_  
 Cost Code: \_\_\_\_\_  
 Property Number: \_\_\_\_\_

**Print Sequence # 5.0, Item # 5:** Glass Bead Item 2: AASHTO M-247 Type I Glass Bead, 50 lb Bag 3PS - Sent

NIGP Code: 550-04  
 Beads, Glass, Sign and Stripe

Bid # / Bid Item #: ADSP013-00002254 / 5 Quote # / Quote Item #: 000015214 / 5

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$14.395	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: \_\_\_\_\_ Brand: \_\_\_\_\_ Model: \_\_\_\_\_  
 Make: \_\_\_\_\_ Packaging: \_\_\_\_\_  
 Project No.: \_\_\_\_\_  
 Building Code: \_\_\_\_\_  
 Cost Code: \_\_\_\_\_  
 Property Number: \_\_\_\_\_

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Exit

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# Contract Amendment

Contract No.: ADSP013-034726

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Amendment Contract Extension

State of Arizona  
State Procurement Office

100 N. 15<sup>TH</sup> Avenue, Suite 201  
Phoenix, AZ 85007

**CONTRACTOR:**  
Potters Industries Inc.  
P.O. Box 840  
Valley Forge, PA 19482

**STATE AGENCY:**  
AZ Department of Administration  
State Procurement Office  
100 N. 15<sup>TH</sup> Avenue, Suite 201  
Phoenix, AZ 85007

**CONTACT:** Yvonne Harris  
**PHONE:** 610-651-4714  
**EMAIL:** Yvonne.harris@pottersbeads.com

**CONTACT:** David Gonzales  
**PHONE:** (602) 542-9139  
**EMAIL:** david.gonzales@azdos.gov

## Glass Beads for Pavement Markings Materials, Statewide

- Section 23 of the **SPECIAL TERMS AND CONDITIONS, INSURANCE REQUIREMENTS**. A new Certificate of Insurance shall be submitted for this next Term of the contract through, Dec. 2016.
- Section 2, Term of Contract, in the **SPECIAL TERMS AND CONDITIONS**, the aforementioned contract is hereby extended for an additional one-year period. The term of the extended contract shall be from 10/28/2015 to 10/27/2016.
- All other terms, conditions and provisions remain unchanged.

This Contract Amendment is not binding against the State of Arizona unless signed by an authorized representative of the Contractor and then accepted in writing by an authorized representative of the State.

Contractor hereby acknowledges receipt and understanding of the above amendment.

The above referenced contract amendment is hereby executed this date by the State.

 October 5, 2015  
Signature Date

 10/5/2015  
Signature Date

Yvonne D. Harris  
Contract Administrator  
Printed/Typed Name and Title

David Gonzales  
Sr. Procurement Officer  
Printed/Typed Name and Title



# Offer and Acceptance

SOLICITATION NO.: ADSP013-00002254

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Description: Glass Beads for Pavement Marking Materials

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State of Arizona  
State Procurement Office  
100 N. 15th Ave., Suite 201  
Phoenix, AZ 85007

## OFFER

### TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Arizona Transaction (Sales) Privilege Tax License No.:

08020973-Z

Federal Employer Identification No.:

22-1933307

E-mail: Yvonne.Harris@pottersbeads.com

Phone: 610-651-4714

Fax: 610-408-9723

Potters Industries, LLC

Company Name

300 Lindenwood Drive

Address

Malvern, PA 19355

City

State

Zip

Signature of Person Authorized to Sign Offer

Yvonne D. Harris

Printed Name

Contract Administrator

Title

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anti-competitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41-1451 through 1455.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization  IS  IS NOT a small business with less than 100 employees or has gross revenues of \$4 million or less.
5. In accordance with A.R.S. §35-393, the offeror hereby certifies that the Offeror does not have scrutinized business operations in Iran.
6. In accordance with A.R.S. §35-391, the offeror hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

## ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This Contract shall henceforth be referred to as Contract No. ADSP013-034726. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document or written notice to proceed.

State of Arizona  
Awarded this

29<sup>th</sup> day of October 2012

Procurement Officer



# Specifications

Solicitation No.: ADSP013-00002254

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Description: Glass Beads for Pavement Marking Materials

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State of Arizona  
State Procurement Office  
100 N.15th Ave., Suite 201  
Phoenix, AZ 85007

## 1. Introduction and Background

The State of Arizona (the State), its Agencies, Boards and Commissions (State) as well as Participating Members of the State Purchasing Cooperative (Cooperative), have an ongoing requirement for various products and services as described herein. The purpose of this solicitation is to conduct a competitive process, in accordance with Arizona Revised Statutes (ARS) 41-2501 et seq., to create a contract(s) from which the State and its Cooperative Members may acquire these products and services. The contract(s) shall be available for use by all State Agencies, Boards, Commissions as well as State Purchasing Cooperative Members, collectively hereinafter referred to as Eligible Agencies.

The total annual usage of glass beads for fiscal year 2012 (July 2011 - June 2012) totaled to \$826,722. From this amount, 62% of this expenditure came from the State through the Arizona Department of Transportation (ADOT) for a total spend of \$507,801. ADOT's spend came from various locations throughout Arizona, which included: Flagstaff, Tucson, Phoenix, Show Low, Prescott Valley, Holbrook, Safford, and Kingman. The remaining 38% of expenditures came from the State's Cooperatives; with a total annual spend of \$318,921. Large purchases from participating Cooperatives came from the following locations: Maricopa County, City of Mesa, Tucson City Stores, Tempe City, Cochise County, City of Lake Havasu, City of Peoria and City of Scottsdale. *This information is from quarterly usage reports. The State makes no guarantees regarding future usage.*

ADOT's annual usage of American Association of State Highway and Transportation Officials (AASHTO) Type I with 80% Rounds and FP-96 Type III glass beads is estimated at 2,378,000 pounds. Of this total 945 were 2,400 pound super sacks and 2,200 fifty pound bags. Typically, the statewide and regional striping crews use the super sack, while the regional traffic striping crews use the 50 pound bags. Super sacks are generally needed in Tucson, Holbrook, Phoenix, Safford and Kingman. Bags are normally needed in Flagstaff, Holbrook, Payson, Phoenix and Prescott. ADOT's container use and delivery location may vary from what is indicated here. The quantities given here are based on ADOT's past usage. ADOT reserves the right to increase or decrease these amounts as circumstances may require.

## 2. Contractor Requirements

The glass beads and their coatings (as applicable) shall be specifically designed and manufactured for the purposes specified herein. The contractor shall have specific knowledge and experience in manufacturing and application of glass beads for the pavement marking industry. Additionally the contractor shall have adequate manufacturing, container, storage and shipping capacity to meet the State's supply needs and provide consistent and periodic technical and field service, training and inspection support and processes with regards to the proper use and application of glass beads.

## 3. Glass Bead Gradation Types

A total of six types of glass beads are specified with four different gradation requirements. The bead contract item, type and gradation requirements are as follows:

- 3.1 Glass Bead Item 1: ADOT Standard Specification Section 708 Glass Bead  
Gradation shall be per the 2000 version of ADOT Standard Specification for Road and Bridge Construction Section 708 glass bead gradation per subsection 708-2.02 Reflective Glass Beads (Spheres):. (B) Physical Requirements:; (1) Gradation: (page 624).
- 3.2 Glass Bead Item 2: AASHTO M-247 Type I Glass Bead  
Gradation shall be per the American Association of State Highway and Transportation Officials (AASHTO) Standard Specification for Glass Beads Used in Traffic Paint- AASHTO Designation: M 247-81, Type I standard gradation.



# Specifications

Solicitation No.: ADSP013-00002254

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Description: Glass Beads for Pavement Marking Materials

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State of Arizona  
State Procurement Office  
100 N.15th Ave., Suite 201  
Phoenix, AZ 85007

- 3.3 **Glass Bead Item 3: AASHTO M-247 Type I with 80% Rounds Glass Bead**  
The same gradation requirements as Glass Bead Item 2 except it shall have 80% rounds.
- 3.4 **Glass Bead Item 4: High Performance Glass Bead (Texas DOT Type II or Similar)**  
The exact gradation and rounds requirement for this glass bead shall be as offered by the contractor. The only requirement is that the reflective potential of this glass bead has to exceed the reflective potential of types 1-3 and meet or exceed the gradation requirements of the Texas DOT DMS-8290, Glass Traffic Bead, August 2004 Type II Gradation requirements in the bigger bead sizes. The gradations offered shall include the economy of the smaller bead types while including enough of the larger type beads to optimize retroreflective potential. The percentage of rounds can vary between gradation sieve sizes.
- 3.5 **Glass Bead Item 5: FP-96 Type III Glass Bead**  
Gradation shall be per the Federal Highway Administration (FHWA) FP-92 or 96 Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects Type III glass bead gradation.
- 3.6 **Glass Bead Item 6: FP-96 Type III High Performance Glass Bead**  
The same gradation requirements as the Glass Bead Item 5, except it shall be made of a clear or direct melt glass materials.

The sampling and testing method for all gradations shall be per ASTM D 1214.

## 4. Glass Bead Requirements

### 4.1 *Basic Characteristics:*

The glass beads and coatings shall be designed to be applied on a variety of liquid pavement marking materials which will be applied at a number of different thicknesses in new and restripe applications and still achieve adequate or better no-track drying, night-day visual and durability performance. The glass beads shall be such that they can achieve the required coverage (e.g. width of line) and wet thickness at application speeds up to 10 miles per hour with a one paint application spray gun. With a two paint application spray gun arrangement (one followed by another) the material should be able to achieve the same or similar performance at 16 to 18 mph. This application speed is necessary to maintain traffic. With glass beads applied, this material upon drying shall produce an adherent reflectorized marking capable of resisting the mechanical and weather wearing elements presented by urban and rural roadway environments in Arizona.

### 4.2 *Material:*

- Glass Bead gradations for glass bead Items 1-5 can be manufactured of predominately recycled glass.
- Glass Bead Item 6 (FP-96 Type III High Performance glass bead gradation) shall be manufactured from more pure raw glass material (e.g. often called direct melt) that shall have a clear, whiter appearance than the other type of beads herein specified.

### 4.3 *Glass Bead Coatings:*

Unless ordered otherwise, all glass beads shall be coated with a dual moisture proof and adhesion type of coating. The exact formulation of this coating technology shall be determined by the contractor. The contractor can also offer no coating or different coatings as noted on the product description sheet. Coatings can be material specific (e.g. coating for paint, coating for thermoplastic).

Coatings shall have the following characteristics:

- A moisture proof function that prevents the glass beads from being negatively affected by moisture than can build-up in bead storage tanks and/or containers.
- An adhesive enhancing function that shall help the glass bead develop a durable bond to waterborne traffic paint and extruded alkylid thermoplastic.
- The ability to help enhance optimal (50 to 60% of the bead diameter) bead embedment.



# Specifications

State of Arizona  
State Procurement Office  
100 N.15th Ave., Suite 201  
Phoenix, AZ 85007

Solicitation No.: ADSP013-00002254

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Description: Glass Beads for Pavement Marking Materials

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**4.4 Moisture Content:**

The glass beads shall have a moisture content of less than 0.25% by weight.

**4.5 Crushing Resistance:**

As a minimum all type beads shall comply with the crush resistance requirements of MSHTO M 247-81.

**4.6 Retroreflectance:**

The glass beads and the applicable coatings shall be designed and made in a way so they are specifically designed to be fully functional and durable as a retroreflecting element on and within a liquid applied pavement marking.

The minimum target lab test retroreflectivity of the Glass Bead Items 1 and 2 are based on an ADOT specification 15 wet mil draw down paint (ADOT specific) or a 90 mil draw down of thermoplastic (eligible agency specific) shall be:

<u>Marking Color</u>	<u>Retroreflectance (Millicandelas)</u>
White	300
Yellow	120

**4.7 Refractive Index:**

The "liquid immersion method" shall be used to determine the refractive index.

- Glass Bead Item 1 (ADOT standard) shall have a refractive index range between 1.5 to 1.57.
- Glass Bead Items 2 and 3 (MSHTO Type I) shall have a refractive index of at least 1.5.
- Glass Bead Item 4 (High Performance Glass Bead) shall have a refractive index range of between 1.51 to 1.55.
- Glass Bead Items 5 and 6 (FP-96 Type III) shall have a refractive index range of between 1.50 to 1.52.

**4.8 Roundness:**

- Glass Beads Items 1 and 2 shall contain a minimum of 70% true spheres.
- Glass Bead Item 3 shall contain a minimum of 80% true spheres.
- The rounds for Glass Bead Item 4 shall be determined by the contractor.
- The rounds for Glass Bead Items 5 and 6 (FP-96 Type III Gradations) shall be a minimum of 75% on retained beads on sieve numbers 12, 14 and 16 and a minimum of 80% true spheres for the sample retained on sieve numbers 18, 20 and 25

**4.9 Flow Characteristics:**

The glass beads supplied shall be readily flow able (under pressure or without) so they can easily achieve an even and complete drop on sprayed water based paint and extruded hot applied alkyd based thermoplastic pavement markings. The glass beads shall be capable of maintaining their free flow characteristics up to a temperature of 120 degrees F without damaging the formulation or serviceability of the material or the traffic striping equipment from which it is being applied. It is important to note that the ambient temperature in some areas of Arizona can be 120 plus degrees F. The glass beads shall be able to be vacuum tube transferable and readily dispensable per standard gravity or pressure assisted glass bead guns without a build-up of objectionable static electricity.

The testing of the dual coated adhesion/moisture proof coated beads for coating and free flow characteristics shall be per a procedure that is consistent with MSHTO M 247-81 specifications (procedure 4.4.1 or 4.4.2) and as specified by the manufacturer and reviewed and approved by the State. Note that a larger diameter funnel will more than likely be needed to test the larger gradation beads (Items 4, 5 & 6).



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If the beads have a coating that is not compatible with these testing procedures then the manufacturer shall submit a procedure to the State for review and approval.

#### 4.10 *Specific Gravity:*

The specific gravity of the beads shall be in the range of 2.4 to 2.6 when tested in accordance to the procedure in ADOT's 2000 version of the Standard Specifications under Section 708 - Permanent Pavement Markings, per subsection 708-2.02 Reflective Glass Beads (Spheres): (B) Physical Requirements, (4) Specific Gravity: (pages 624).

#### 4.11 *Chemical Stability:*

The beads as coated shall be chemically stable when stored or applied to traffic marking paints and hot-applied thermoplastics pavement markings. The beads shall show no tendency toward decomposition, including surface etching, dulling, hazing or discoloration, when exposed to atmospheric conditions typical of the Arizona's diverse alpine to desert environment. The beads shall be able to demonstrate this chemical stability, by showing no signs of dulling, hazing and/or darkening, when tested in accordance to applicable TT-B Federal Specification 1325C for resistance to acid, calcium chloride, sodium sulfide or similar type of solutions in other types of controlled chemical stability tests.

### 5. Containers

5.1 The glass beads shall be available in at least four container types: 50 pound bags, 550 pound drums (or totes), 2,000 pound tri-wall totes and 2,400 pound super sacks. All glass bead containers shall be capable of withstanding normal shipping and handling without damage or loss of function. All containers shall be shipped and delivered on pallets, unless specified otherwise by the eligible agency at the time of order. All containers shall be rated (plus a safety factor) for the weight of beads they are intended to contain. All containers shall be weather tight and shipped in such a manner that protects them from leakage, harm, weather or degradation while in transit, handling or when stored. The packaging shall be such that it is suitable to store these materials outdoors for short periods of time (e.g. less than six months) without damage or deterioration. The contractor agrees to warranty the performance of all containers by replacing any damaged glass beads, without cost to the State, which occurs because of defective or ineffective containers.

5.2 All containers shall be appropriately labeled as to their contents, date of manufacture and weight. The minimum information on the label shall be the contractor's name/address/phone number, type of glass beads (classification plus brand name/code), gradation type, coating, percent rounds, batch number, weight and any other required state/county/federal warning/hazard/regulatory information.

5.3 The fifty pound bags shall have an overlapped pinch bottom style multiple ply paper-plastic bag. The exact construction of the bags, drums, totes and super sack is to be per the manufacturer, but it shall meet the function requirements as stated herein. All super sacks shall be suitably designed and constructed for their intended use. This includes, when full, being able to be lifted by a crane or forklift when on a pallet. All super sacks shall have the appropriate outlets at the top and bottom of the sack that is compatible with glass bead transfer procedures. The drums and totes shall have removable/replaceable lids.

### 6. Storage

All materials shall have a rated shelf or storage life of twelve (12) months from the date of delivery to the eligible agency. If the method of storage is not acceptable or there are concerns, then it is the responsibility of the offerer to notify the State of these concerns in writing. The contractor shall inform the State of any acceptable techniques that can be used to store glass beads, either in their original containers, transfer tanks or in the tanks of striping vehicles. Storage techniques that are overly restrictive or result in significant labor are not acceptable.



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## 7. Product Use and Care Instructions

- 7.1 Every shipment of products to the eligible agency shall include sufficient documentation and instruction booklets/sheets to ensure that the eligible agency has access to the needed information to ensure proper use and care of the products shipped.
- 7.2 The instruction booklets/sheets shall provide complete and comprehensive information on how the items delivered are to be handled, used, stored and maintained. If any changes, modifications, refinements, additions or alterations of any kind are made to the products and/or instructions throughout the life of this contract the contractor shall make sure the State is provided with updated information as soon as possible.
- 7.3 The instruction booklets/sheets shall be clearly marked as to what product they apply to. As a minimum, the instructions shall have the following information:
  - Information about the company supplying the products including a customer service phone number (an 800/888 number is preferred, but not required).
  - Step by Step instructions on how the products are to be stored, handled, cleaned, maintained and used.
  - Information on how application rates are to be determined and maintained.
  - Trouble shooting guide on problems that might be encountered. The contractor can provide additional information at their discretion. The State will review the content of the instruction booklet/sheet and if the content is not acceptable or requires changes or additions the contractor shall revise them as requested. The State shall have the right to reproduce any material for eligible agency purposes only.

## 8. Manuals

- 8.1 The contractor shall provide manuals to any eligible agency upon their request. Specifically, ADOT will require eight (8) copies of the installation instruction manual with the first glass bead order and additional manuals shall be supplied upon request. The manuals supplied shall provide complete and comprehensive information on the items to be supplied. If any changes, modifications, refinements, additions or alterations of any kind are made to these items throughout the life of this contract that affect the manuals the contractor shall update all manuals.
- 8.2 The manuals shall be organized and submitted in one inch, three ring binders that are clearly marked as the "Installation Manual" for the item to be supplied (e.g. "Glass Beads"). The manual shall be indexed and shall also have tabs that separate the manual into logical sections. As a minimum the manual shall consist of the following sections: 1) information about the company supplying the products, 2) information about the product covered by the manual, 3) specific instructions on how the items are to be applied (importance of bead rate, wet film and bead rate calibration procedures, importance of bead shrouds, embedment issues, etc.), 4) other information / recommendations on how to use, care, store and ship the product and 5) copy of this IFB / Specifications and 6) MSDS sheets. The contractor can add additional information at their discretion.
- 8.3 The manual shall also include the name and phone number (an 800/888 number is preferred, but not required) of a customer service representative. This customer service representative should be a person who is authorized and trained to handle questions about the glass bead products being supplied. The person should be able to provide detailed technical input on application techniques and solutions to potential problems. As a minimum, a customer service representative shall be available Monday through Friday between 8:00 am to 4:00 pm Mountain Standard Time, excluding holidays. The customer service phone line shall have voice mail so that messages can be left after business hours. All eligible agency calls for information and help shall be answered in a timely and professional fashion.



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8.4 The eligible agency will review the content of the manual, if the content is not acceptable or requires changes or additions the contractor shall revise the manual as requested. The eligible agency shall have the right to reproduce any material for eligible agency purposes.

## 9. Customer Service Visits

9.1 The contractor shall travel to Arizona on a regular basis to conduct customer service visits. Presently, ADOT requires bi-annual visits to ensure all requirements of the contract are being met. Other eligible agencies may request customer service visits as deemed necessary. Service visits shall be coordinated at least two weeks in advance.

9.2 The objective of the bi-annual service visits is to help assure that the glass bead supply contract is going well, the requirements of the specifications are being met and to determine if there are any problems that need to be addressed. These visits can also be used to conduct training classes and observe/check applications in the field. The frequency and number of persons involved in each service visit shall be increased or decreased if requested by ADOT or eligible agency.

9.3 The following contact information shall be used to contact ADOT for customer service visits:

- The current ADOT Statewide Striping Manager is Jack Hayes (602-278-4749).
- The current ADOT Pavement Marking Engineer is Mohamed Elomeri (602-712-8531).

## 10. Quality Control

The contractor shall have a quality control program that involves sampling and testing of all glass beads. The program shall involve routine verification of the type, quality and purity of raw materials, sampling, testing and record keeping on all products made and shipped. The quality control tests run on each product shall be sufficient to ensure that the products have been successfully made, can function properly and comply with the applicable requirements of the specifications. All products shall have a unique number assigned to them. This number shall be used to correlate and track this product as it is made, handled, shipped and used. The quality control process shall maintain records of these batch tests for a minimum of two years after the beads are made and delivered to the eligible agency. As a minimum, samples of each batch shall be maintained at least twelve months after the batch is delivered to the eligible agency. If requested, the contractor shall fully disclose all quality control records and samples to the eligible agency. This includes making copies of these records and mailing them to the eligible agency within 14 calendar days from the time they are requested.

## 11. Post Award Plant Inspection

11.1 The contractor shall be required to transport and accommodate representatives from ADOT and/or other eligible agencies to inspect their manufacturing facility and to sample glass beads. The purpose of this inspection will be to verify that the beads being produced meets all of the applicable requirements of the specifications and that appropriate quality control measures are being taken when beads are manufactured, containerized and shipped. This includes the inspection and verification of raw materials used, batch sampling methods, specification conformance quality control tests, record keeping on batches, container filling methods, verification of the actual weight of beads in containers and amount of beads shipped. The contractor shall bear all transportation and accommodation costs associated with this plant inspection which is expected to take two to three days. The post-award inspection will coincide with a bead order from ADOT.

11.2 The contractor shall supply adequate sample vessels for the purpose of taking bead samples from the test batches. The samples shall be taken from the main batch via a process that will result in what is believed to be a representative sample of the beads produced. Sufficient samples shall be taken to conduct all of the required tests. ADOT will retain these samples for testing at the Materials Laboratory. Additional testing may be coordinated by the using eligible agency. The contractor shall provide for the shipping of the test samples to ADOT and eligible agencies. Additionally, the contractor shall give full access to ADOT's or the

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eligible agency's inspector for a review of the quality control testing and record keeping procedures used to verify batches, labeling, weighed (empty), filled and re-weigh to verify the actual weights of beads placed in containers.

- 11.3 ADOT and eligible agencies reserve the right to repeat the post-award inspection if deemed necessary. Who is responsible for the travel and subsistence costs associated with the repeat inspection will depend on the reason for the inspection. If the inspection is to verify the correction of a contractor problem, product change or to further evaluate a known problem then the contractor will be responsible. If the repeat inspection is due to an ADOT or eligible agency requested change or a random check then ADOT or the eligible agency will be responsible.

**12. Training**

- 12.1 As a part of this contract at least one training session on proper glass bead application is to be held annually. The training sessions are to be coordinated and conducted by the contractor within 90 days of awarding this contract.
- 12.2 The default training location for ADOT striping crews shall be ADOT's Traffic Operation Section in Phoenix. However, if requested otherwise the training sessions could be held at various locations throughout the State of Arizona. The actual training site may be determined at the time the training session is scheduled. The contractor is to contact the Statewide Striping Manager or the requesting eligible agency at least two weeks in advance to coordinate each training session's location, meeting room and mutual convenient date and time.
- 12.3 The training session shall be as required to adequately instruct ADOT and eligible agency striping crews in the proper handling and application of glass beads. This includes the calibration of needed wet mil thicknesses of paint and glass bead application rates. The contractor shall supply each ADOT striping crew and eligible agency with a wet film and glass bead application rate calibration kit. ADOT currently has a total of eight striping crews (three statewide and five regional crews). Additional calibration kits shall be supplied upon request; this is to include requests from eligible agencies.
- 12.4 The contractor shall supply whatever is necessary [sample items, tools and materials (including handouts and/or manuals)] to make the demonstrations and properly train ADOT and eligible agency personnel. The use of supplemental videos and/or slide presentations are encouraged, the contractor should coordinate with the requesting eligible agency on the availability of audio-video equipment. The training session shall be conducted by a factory or factory trained representative(s) that have extensive related experience. The training session as herein specified shall be repeated, if requested by the eligible agency.



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### 1. Term of Contract

The term of any resultant contract shall commence on the date of award and shall continue for a period of twelve months (12) thereafter, unless terminated, cancelled, or extended as otherwise provided herein.

### 2. Contract Extension

The initial contract term is subject to additional successive one-year periods or portions thereof with a maximum aggregate contract term including all extensions not to exceed five (5) years.

### 3. Contract Modifications

The State reserves the right to revise the delivery, schedule and make other changes within the general Scope as may be deemed necessary to best serve the interest of the State. Contract changes shall be documented by a Contract Amendment, as defined by A.R.S. §41-2503, R-2-7-101(15).

Any change in the Contract, including but not limited to the Statement of Work described herein, whether by modification or supplementation, must be accomplished by a formal contract amendment approved by and between the duly authorized representatives of the Contractor and the Arizona State Procurement Office. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment to the contract.

### 4. Eligible Agencies

This contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes § 41-2632.

### 5. Non-Exclusive Contract

This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by either the agency (within an agency's delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

### 6. Ordering

6.1 This contract was awarded in accordance with the Arizona Procurement Code and all transactions and procedures required by the code for competitive source selection have been met. A contract release order/purchase order, initiated in accordance with the requirements contained herein, that cites the correct Arizona contract number is the only document required for the agency to order and the contractor to deliver the material and /or service.

6.2 Any attempt to represent any material and/or service not specifically awarded, as being under contract with the State of Arizona is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the state inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.



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### 7. Shipping

- 7.1 Prices shall be F.O.B. Destination to any delivery location in the State of Arizona, delivered to the specified receiving point as required by the customer agency at the time of order. Contractor shall retain title and control of all goods until they are delivered, received and contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. All claims for visible and concealed damage shall be filed by the contractor. The State will notify the contractor promptly of any damaged goods and shall assist the contractor in arranging for inspection.
- 7.2 For each shipment the contractor shall issue a certificate which shall be titled **Net Weight of Shipment Certificate** or something similar. This certificate shall include detailed information about the weight of the truck, weight of pallets, weight of packaging (bags, totes or super sacks) and the total weight of glass bead materials in that shipment. A copy of each net weight verification certificate shall be included with each shipment and each invoice. The eligible agency reserves the right to spot check the net glass bead shipment weight per an independent scale. The contractor shall make any shipment available for inspection and weighing at a site specified by the eligible agency if requested.

### 8. Delivery

- 8.1 Unless specified otherwise, at the time of order all deliveries shall go, in a neat and orderly fashion, to the locations specified within 28 calendar days of receipt of a purchase order (ARO). If specified by the eligible agency at the time of order, delivery times may be more than 28 days. If the eligible agency requests a delivery more than 28 days then the eligible agency shall have the right to specify the exact date and time of delivery.
- 8.2 The contractor shall acknowledge to the eligible agency in writing the time and date a purchase order is received. Additionally, the contractor shall acknowledge to the eligible agency in writing the time and date when deliveries will be made. Copies of these orders, bill of lading and delivery receipts shall be included as attachments to all invoices.
- 8.3 The eligible agency will provide the necessary labor and equipment to unload glass bead shipments if they are delivered at a date and time when a crew and forklift is available. **ALL SHIPMENTS SHALL BE IN OPEN TRAILERS, UNLESS SPECIFIED OTHERWISE ON THE PURCHASE ORDER.** The Contractor shall coordinate and schedule when the delivery is to be made. All delivery date and times shall be approved by the eligible agency in advance. All delivery times are subject to availability of the eligible agency's crew and equipment to unload the shipment. Shipments that are delivered at unscheduled dates and times will not be unloaded.
- 8.4 A late shipment of beads can be grounds for the eligible agency to reject the shipment, suspend the contract, cancel the contract or utilize another supplier. The contractor shall maintain a reasonable stock with the appropriate sized containers on hand to maintain the required delivery terms.

### 9. Acceptance

- 9.1 Each item delivered shall be subject to a complete inspection by the eligible agency. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.
- 9.2 If the delivered product is returned to the contractor for corrective action for any reason, the Contractor is responsible for re-delivering acceptable material to the eligible agency within 14 days. An additional period of fifteen (15) calendar days shall be allowed for inspection when subsequent deliveries occur.
- 9.3 The contractor shall be fully responsible for the transport of the material from and to each location, for installation and/or for the correction of items or workmanship not in compliance with the specifications.
- 9.4 Product returned to the contractor for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted by the eligible agencies.



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### 10. Invoicing and Payments

- 10.1 All billing notices or invoices shall be sent to the Eligible Agency whose address appears on the contract release order/purchase order as the 'bill to address' and should contain, at a minimum, the following information.
- Both the contract number and contract release/purchase order number;
  - Name and address of the contractor;
  - The contractor's remittance address;
  - Contractor's representative to contact concerning billing questions
  - A description of the goods or services provided;
  - Itemized (if applicable) and total invoice pricing
  - Applicable taxes
- 10.2 Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the contractor. A contractor whose payments are delayed due to improper invoicing shall make no claim against the State for late or finance charges.
- 10.3 The State will make every effort to process payment for the purchase of product within thirty (30) calendar days after the State has conducted the necessary reviews, and inspections as described herein. **DELIVERY OF THE PRODUCT TO THE ELIGIBLE AGENCY DOES NOT CONSTITUTE ACCEPTANCE, THEREFORE, ONLY THE ELIGIBLE AGENCY ACCEPTANCE DATE WILL BE A VALID DATE FOR STARTING THE THIRTY (30) CALENDAR DAY PAYMENT PERIOD.**
- 10.4 Payment due dates, including discount periods, will be computed from the date of acceptance or date of correct invoice (which ever is later) to the date the State's warrant is mailed.

### 11. Estimated Quantities

The State anticipates considerable activity resulting from this contract; however, no commitment of any kind is made concerning the quantity or monetary value of activity actually initiated and completed.

### 12. Price Reduction

Price reductions may be submitted to the state for consideration at any time during the contract period. The contractor shall offer the state a price reduction on the contract product(s) concurrent with a published price reduction made to other customers. The state at its own discretion may accept a price reduction. The contractor shall request, in writing, a price reduction. The contractor shall request, in writing, a price reduction and provide the following:

- A formal announcement from the manufacturer that the cost of the contract product has been reduced.
- Documentation, i.e., published cost lists, from the manufacturer showing, to the satisfaction of the state, the actual cost reduction.
- Documentation showing that the published cost reductions have been offered to other distributors.

### 13. Price Adjustment

- 13.1 The State Procurement Office may review a fully documented request for a price increase only after the contract has been in effect for one (1) year. A price increase adjustment shall only be considered at the time of a contract extension and shall be a factor in the extension review process.
- 13.2 The requested increase shall be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned.



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13.3 Documentation submitted as part of the request may include but is not limited to:

- A formal announcement from the manufacturer that the cost of the contract product has been increased.
- Documentation, i.e., published cost lists, from the manufacturer showing, to the satisfaction of the state, the actual cost increase.

13.4 The State Procurement Office shall determine whether the requested price increase or an alternate option is in the best interest of the State.

### 14. Safety Standards

All items supplied on 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.

### 15. Warranty

15.1 The contractor warrants:

- That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.
- That all items furnished hereunder shall conform to the requirements of this contract and shall be free from defects in design materials and workmanship.
- The warranty period on workmanship and materials shall be based on a minimum of nine (9) months from the time of delivery.
- They shall, at their own expense, provide all services required to repair or replace any materials found to be defective during the terms defined herein. The contractor is responsible for the removal and disposal of all defective materials. The contractor is also responsible for taking actions to prevent similar defects in the future.
- User manuals, training and technical services described herein shall provide the State and eligible agencies with the necessary information and instruction that ensures the effective and safe use of the materials supplied. The contractor shall update the manuals and training sessions as necessary to meet this requirement.

15.2 Each contractor shall indicate the exact conditions, limitations and duration of their warranty. As a minimum, the warranty provided shall conform to the requirements stated herein.

### 16. Product Discontinuance

16.1 In the event that a product or groups of products are discontinued by a manufacturer, the State at its sole discretion may allow the contractor to provide substitutes for the discontinued product(s) or allow the deletion of such products from the contract. The request may be submitted at any time during the contract period and shall be supplemented with the following information. Failure to supply any of the following information with the request may result in the state not considering the request:

- A formal announcement from the manufacturer stating that the product(s) have been discontinued.
- Documentation from the manufacturer that cites the effected products by item number and description.



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- Documentation from the manufacturer that names the replacement product(s).
- Documentation that provides clear evidence that the replacement product(s) meets or exceeds the specifications of the discontinued product(s) while remaining in the same product group(s) as the discontinued item, and;
- Documentation confirming that the price for the replacement product(s) is the same as or less than the discontinued item.

16.2. Approval shall be in the form of a contract amendment and shall become effective on the date specified in the amendment. Upon approval by the state, the contractor shall make available all electronic and hard catalog/price list updates to all eligible at no additional cost to the State.

### 17. Contract Administration

17.1 For information regarding the Uniform and Special Terms and Conditions, and Specifications referenced herein contact:

Kianie Putnam  
Procurement Specialist  
ADOA, State Procurement Office  
100 N. 15<sup>th</sup> Ave, Suite 201  
Phoenix, AZ 85007  
Phone: (602) 542-9134  
E-Mail: kianie.putnam@azdoa.gov

17.2 The Contractor shall contact the listed procurement officer for guidance or direction in matters of contract interpretation or questions regarding the terms, conditions or scope of the contract. Only the Procurement Officer or authorized designee is authorized to change or amend the specific terms, conditions or provisions of the contract.

### 18. Certification of Requirements

The State and eligible agencies may require reports, records of quality control tests, samples, gradation information or other testing lab reports be submitted for those glass bead materials supplied. These reports shall contain documentation of testing and other information that indicate that the supplied materials meet or exceed the requirements of these specifications. Requested reports are to be submitted at no cost and within ten working days. Failure to submit these reports within this time frame may be cause to cancel a portion or all of a contract or non-use of those materials.

### 19. Glass Bead Samples and Testing

- 19.1 Eligible agencies may request samples of glass beads from the contractor. The contractor shall take up to three representative samples from a batch of glass beads intended for the eligible agency. The contractor shall ship the samples as requested.
- 19.2 Each sample shall be marked with the glass bead manufacturer's name, type (designation and brand name / number), coating type, batch number, date of manufacturer and any other information that is useful or required by law or regulation.
- 19.3 It is anticipated that samples will only be requested on a random basis or when a problem with a shipped batch is encountered. ADOT reserves the right to field sample glass beads at any time.



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19.4 The contractor shall periodically, or as requested by the eligible agency, obtain samples of the paint and thermoplastic products being supplied to the eligible agency. The contractor shall then do the necessary lab work using appropriate test methods to investigate the retroreflective performance of the supplied glass beads with these materials. The contractor shall inform the eligible agency and the paint or thermoplastic contractor of their findings and make suggestions for improvements, if and as necessary and applicable. The objective of this testing is to have the bead, paint and thermoplastic formulations work as a system so they are able to achieve the highest retroreflective potential as possible. It will also help the eligible agency determine the amount of primary pigment being used and the dispersion of this pigment in these materials is as it should be and if not what needs to be done to better optimize the formulation. Therefore, the contractor shall have the necessary personnel and lab resources to conduct tests like this on a routine basis.

### 20. Administrative Fee/Usage

20.1 Contractor shall assess an administrative fee in the amount of one (1%) against all contract sales to members of the State Purchasing Cooperative – including cities, counties, school districts and other qualified members. The administrative fee is calculated against all sales under this contract minus any taxes or regulatory fees, minus any returns or credits, and minus any shipping charges not already included in the unit prices. An updated list of State Purchasing Cooperative members may be found at [http://spo.az.gov/Cooperative\\_Procurement/SPC/default.asp](http://spo.az.gov/Cooperative_Procurement/SPC/default.asp).

20.2 At its option, the State may expand or narrow the applicability of this fee. The State shall provide thirty (30) written notice prior to exercising or changing this option.

20.3 The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.

20.4 Contractors shall submit a Quarterly Usage Report documenting all contract sales. The proper Usage Report Forms may be found on the State Procurement Office's web site at [http://spo.az.gov/Contractor\\_Resources/Admin\\_Fee/default.asp](http://spo.az.gov/Contractor_Resources/Admin_Fee/default.asp). Any alternate Quarterly Usage Report format shall be approved by the Procurement Officer. If there are no contract sales during a quarter a quarterly Usage Report indicating "no contract sales" shall be submitted to satisfy this requirement. Although not required under this reporting activity, the contractor shall provide itemized usage reports detailing all acquisitions against this contract upon request.

20.5 The applicable Administrative Fee shall be submitted, along with a Quarterly Usage Report to the State Procurement Office no later than the last day of the month following the end of each calendar quarter. Administrative Fees shall be submitted to the following address:

Arizona Department of Administration  
State Procurement Office  
Attention: 'Statewide Contract Administrative Fee'  
100 N. 15th Avenue, Suite 201  
Phoenix, AZ 85007

20.6 The submission schedule for Administrative Fees and Usage reports shall be as follows:

July through September (FY Q1) – Due October 31  
October through December (FY Q2) – Due January 31  
January through March (FY Q3) – Due by April 30  
April through June (FY Q4) – Due by July 31



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20.7 Contractor's failure to remit accurate administrative fees and quarterly usage reports in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

### 21. Contract Type

The contract is a fixed-price contract.

### 22. Indemnification Clause

Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.

*This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.*

### 23. Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

**A. MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

#### 1. Commercial General Liability-Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000



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- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: *"The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor"*.

b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

## 2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: *"The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor"*.

b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

## 3. Worker's Compensation and Employers' Liability

Workers' Compensation

Statutory

Employers' Liability

- Each Accident \$ 500,000
- Disease – Each Employee \$ 500,000
- Disease – Policy Limit \$1,000,000

a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

## 4. Professional Liability (Errors and Omissions Liability)

- Each Claim \$1,000,000
- Annual Aggregate \$2,000,000



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a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

- B. ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
  2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
  3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- C. NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to:

Kianie Putnam  
ADOA – State Procurement Office  
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and shall be sent by certified mail, return receipt requested.

- D. ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to

Kianie Putnam  
ADOA- State Procurement Office



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The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.
- H. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.



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1. **Definition of Terms.** As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:
  - 1.1 "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.
  - 1.2 "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
  - 1.3 "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
  - 1.4 "Contractor" means any person who has a Contract with the State.
  - 1.5 "Days" means calendar days unless otherwise specified.
  - 1.6 "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
  - 1.7 "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
  - 1.8 "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
  - 1.9 "Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
  - 1.10 "Services" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
  - 1.11 "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
  - 1.12 "State" means the State of Arizona and Department or Agency of the State that executes the Contract.
  - 1.13 "State Fiscal Year" means the period beginning with July 1 and ending June 30.
2. **Contract Interpretation**
  - 2.1 Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
  - 2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
  - 2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
    - 2.3.1 Special Terms and Conditions;
    - 2.3.2 Uniform Terms and Conditions;
    - 2.3.3 Statement or Scope of Work;
    - 2.3.4 Specifications;
    - 2.3.5 Attachments;
    - 2.3.6 Exhibits;
    - 2.3.7 Documents referenced or included in the Solicitation.
  - 2.4 Relationship of Parties. 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.
  - 2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
  - 2.6 No Parol 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.



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- 2.7 **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.
3. **Contract administration and operation.**
- 3.1 **Records.** Under A.R.S. § 35-214 and § 35-215, 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. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 **Non-Discrimination.** The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3 **Audit.** Pursuant to ARS § 35-214, 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 State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 **Facilities Inspection and Materials Testing.** The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5 **Notices.** Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6 **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.
- 3.7 **Property of the State.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8 **Ownership of Intellectual Property**  
Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of the contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9 **Federal Immigration and Nationality Act** The Contractor shall comply with all federal, state, and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers or any employee thereof to ensure compliance. Should the State determine that the contractor and or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including but not limited to; suspension of work, termination of the contract for default and suspension and or debarment of the contractor.
- 3.10 **E-Verify Requirements.** In accordance with A.R.S 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. 23-214, Subsection A.



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- 3.11 Scrutinized Businesses. In accordance with A.R.S. 35-391 and A.R.S. 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.
4. **Costs and Payments**
- 4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2 Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3 Applicable Taxes.
- 4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current IRS W9 Form on file with the State of Arizona, unless not required by law.
- 4.4 Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 4.5 Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:
- 4.5.1 Accept a decrease in price offered by the, contractor
- 4.5.2 Cancel the Contract
- 4.5.3 Cancel the contract and re-solicit the requirements.
5. **Contract changes**
- 5.1 Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. 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 procurement officer 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.
- 5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3 Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.
6. **Risk and Liability**
- 6.1 Risk of Loss. The 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 the Contractor regardless of receipt.
- 6.2 Indemnification
- 6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.



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- 6.2.2 **Public Agency Language Only** Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers."
- 6.3 **Indemnification - Patent and Copyright.** The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.
- 6.4 **Force Majeure.**
- 6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
- 6.4.2 Force Majeure shall not include the following occurrences:
- 6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
- 6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- 6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- 6.5 **Third Party Antitrust Violations.** The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.
7. **Warranties**
- 7.1 **Liens.** The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2 **Quality.** Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
- 7.2.1 Of a quality to pass without objection in the trade under the Contract description;
- 7.2.2 Fit for the intended purposes for which the materials are used;
- 7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4 Adequately contained, packaged and marked as the Contract may require; and
- 7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.



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- 7.3 **Fitness.** The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 **Inspection/Testing.** The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5 **Compliance With Applicable Laws.** The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 7.6 **Survival of Rights and Obligations after Contract Expiration or Termination.**
- 7.6.1 **Contractor's Representations and Warranties.** All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.6.2 **Purchase Orders.** The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.
8. **State's Contractual Remedies**
- 8.1 **Right to Assurance.** If the State 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 Procurement Officer 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 State'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 **Stop Work Order.**
- 8.2.1 The State 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 State 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.
- 8.2.2 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 Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3 **Non-exclusive Remedies.** The rights and the remedies of the State under this Contract are not exclusive.
- 8.4 **Nonconforming Tender.** Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State 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.
- 8.5 **Right of Offset.** The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.
9. **Contract Termination**
- 9.1 **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years 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 State 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. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.



# Uniform Terms and Conditions

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- 9.2 **Gratuities.** The State may, by written notice, terminate this Contract, in whole or in part, if the State 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 the State 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. The State, 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.
- 9.3 **Suspension or Debarment.** The State may, by written notice to the Contractor, immediately terminate this Contract if the State 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 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 the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4 **Termination for Convenience.** The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5 **Termination for Default**
- 9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.6 **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.
10. **Contract Claims.** All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.
11. **Arbitration.** The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).
12. **Comments Welcome.** The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15<sup>th</sup> Avenue, Suite 201, Phoenix, Arizona 85007.



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## PRODUCT DESCRIPTION

Please provide a brief description of the corresponding glass bead item number listed under 'Items' in ProcureAZ.

### Glass Bead Item 1: ADOT Standard Specification Section 708 Glass Bead

Product Name/Order Code:	ADOT		
Coating Designation for 15 Wet Mil Paint:	MP or AC-110		
Coating Designation for 20 Plus Wet Mil Paint:	MP or AC-110		
Coating Designation for Thermoplastic:	MP or AC-110		
Alternative Coatings:	N/A		
50 lb Bags per Pallet:	48	Pallets per Truckload (50 lb Bags):	19
550 lb Totes per Pallet:	4	Pallets per Truckload (550 lb Totes):	20
2,000 lb Tri-Wall Totes per Pallet:	1	Pallets per Truckload (2,000 lb Tri-Wall Totes):	22
2,400 lb Super Sack per Pallet:	1	Pallets per Truckload (2,400 lb Super Sack):	19



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## Glass Bead Item 2: ADOT AASHTO M-247 Type I Glass Bead

Product Name/Order Code:		AASHTO M-247 Type ■	
Coating Designation for 15 Wet Mil Paint:		MP or AC-110	
Coating Designation for 20 Plus Wet Mil Paint:		MP or AC-110	
Coating Designation for Thermoplastic:		MP or AC-110	
Alternative Coatings:		N/A	
50 lb Bags per Pallet:	48	Pallets per Truckload (50 lb Bags):	19
550 lb Totes per Pallet:	4	Pallets per Truckload (550 lb Totes):	20
2,000 lb Tri-Wall Totes per Pallet:	1	Pallets per Truckload (2,000 lb Tri-Wall Totes):	22
2,400 lb Super Sack per Pallet:	1	Pallets per Truckload (2,400 lb Super Sack):	19



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Glass Bead Item 3: ADOT AASHTO M-247 Type I with 80% Rounds Glass Bead

Product Name/Order Code:		AASHTO M-247 Type ■ 80%	
Coating Designation for 15 Wet Mil Paint:		MP or AC-110	
Coating Designation for 20 Plus Wet Mil Paint:		MP or AC-110	
Coating Designation for Thermoplastic:		MP or AC-110	
Alternative Coatings:		N/A	
50 lb Bags per Pallet:	48	Pallets per Truckload (50 lb Bags):	19
550 lb Totes per Pallet:	4	Pallets per Truckload (550 lb Totes):	20
2,000 lb Tri-Wall Totes per Pallet:	1	Pallets per Truckload (2,000 lb Tri-Wall Totes):	22
2,400 lb Super Sack per Pallet:	1	Pallets per Truckload (2,400 lb Super Sack):	19



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Glass Bead Item 4: High Performance Glass Bead (Texas DOT Type II or Similar)

Product Name/Order Code:		P-40	
Coating Designation for 15 Wet Mil Paint: MP or AC-110			
Coating Designation for 20 Plus Wet Mil Paint: MP or AC-110			
Coating Designation for Thermoplastic: MP or AC-110			
Alternative Coatings: N/A			
50 lb Bags per Pallet:	48	Pallets per Truckload (50 lb Bags):	19
550 lb Totes per Pallet:	4	Pallets per Truckload (550 lb Totes):	20
2,000 lb Tri-Wall Totes per Pallet:	1	Pallets per Truckload (2,000 lb Tri-Wall Totes):	2
2,400 lb Super Sack per Pallet:	1	Pallets per Truckload (2,400 lb Super Sack):	19
<i>Please Provide Details on Proposed Gradation and it's Performance Advantage Over Items 1, 2 &amp; 3:</i>			



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## Glass Bead Item 5: FP-96 Type III Glass Bead

Product Name/Order Code:	L-511 Visibead		
Coating Designation for 15 Wet Mil Paint:	AC - 07		
Coating Designation for 20 Plus Wet MilPaint:	AC - 07		
Coating Designation for Thermoplastic:	AC - 07		
Alternative Coatings:	Dual (Adherence and Moisture Proof)		
50 lb Bags per Pallet:	40	Pallets per Truckload (50 lb Bags):	22
550 lb Totes per Pallet:	4	Pallets per Truckload (550 lb Totes):	20
2,000 lb Tri-Wall Totes per Pallet:	1	Pallets per Truckload (2,000 lb Tri-Wall Totes):	21
2,400 lb Super Sack per Pallet:	1	Pallets per Truckload (2,400 lb Super Sack):	18



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## Glass Bead Item 6: FP-96 Type III High Performance Glass Bead

Product Name/Order Code:		L-511 Visibead Plus ■ ■	
Coating Designation for 15 Wet Mil Paint:		AC - 07	
Coating Designation for 20 Plus Wet Mil Paint:		AC - 07	
Coating Designation for Thermoplastic:		AC - 07	
Alternative Coatings:		Dual (Adherence and Moisture Proof)	
50 lb Bags per Pallet:	40	Pallets per Truckload (50 lb Bags):	22
550 lb Totes per Pallet:	4	Pallets per Truckload (550 lb Totes):	20
2,000 lb Tri-Wall Totes per Pallet:	1	Pallets per Truckload (2,000 lb TriWall Totes):	21
2,400 lb Super Sack per Pallet:	1	Pallets per Truckload (2,400 lb Super Sack):	18



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### OFFEROR'S REFERENCES

This attachment shall be submitted for a minimum of two (2) professional references to which the Offeror provided services similar in scope to those described in this solicitation. A minimum of three attachments shall be part of any response to this solicitation. All references shall be easily verifiable.

<b>Organization</b> State of California Procurement Division	
<b>Address</b> 707 3rd Street, 2nd Floor, West Sacramento, CA 95605	
<b>Contact Name &amp; Telephone Number</b> Eileen Tardiff, Contract Administrator 916-375-4463	
<b>Contact Email Address</b> Eileen.Tardiff@dgs.ca.gov	
<b>Contract Begin Date</b> 11/20/2007	<b>Contract End Date</b> 11/19/2012
<b>Commodity And/Or Service Provided</b> Glass Spheres (Beads)	

<b>Organization</b> Commonwealth of Virginia Department of Transportation	
<b>Address</b> 1401 East Broad Street, Richmond, VA 23219-2000	
<b>Contact Name &amp; Telephone Number</b> Calisha M. Williams, Procurement Officer 804-371-6730	
<b>Contact Email Address</b> Calisha.Williams@VDOT.Virginia.gov	
<b>Contract Begin Date</b> 12/13/2010	<b>Contract End Date</b> 12/12/2012
<b>Commodity And/Or Service Provided</b> Reflectorized Glass Beads - Statewide	