

**REQUEST FOR STATEMENT OF QUALIFICATIONS (RSOQ)
CONSTRUCTION MANAGER AT RISK (CM@R) FOR FIRE/MEDICAL
ADMINISTRATION FACILITY
RSOQ# 18-FD03302018**

INTRODUCTION

The City of Maricopa will accept competitive sealed Statements of Qualifications for a Construction Manager at Risk for the Fire Administration Facility at the address or physical location until the date and time detailed below. The Qualifications shall be delivered to the location listed below, and shall be in the actual possession of the City on or prior to the exact date and time indicated below. Late offers will not be considered. ***Offers shall be submitted in a sealed package with “RSOQ 18-FD03302018 Construction Manager at Risk (CM@R) for the Fire Administration Facility” and the Offeror’s name and address clearly indicated on the front of the package.*** All offers shall be completed in ink or typewritten. Offerors are strongly encouraged to carefully read the **entire** Request for Statement of Qualifications.

Offer Due Date:	June 07, 2018
Offer Time:	2:00 p.m. Arizona Time
Number of Qualifications:	1 unbound original (labeled) and five (5) bound paper copies
Contact:	Kathleen Shipman, Purchasing Manager
E-Mail:	Kathleen.Shipman@maricopa-az.gov
Mailing Address:	39700 W. Civic Center Plaza, Maricopa, AZ 85138
Location:	39700 W. Civic Center Plaza, Maricopa, AZ 85138

OFFER

To the City of Maricopa: The undersigned on behalf of the entity, firm, company, partnership, or other legal entity listed below offers on its behalf to the City an offer that contains all terms, conditions, specifications and amendments in the Notice of Request for Statement of Qualifications issued by the City. Any exception to the terms contained in the Notice of Request for Statement of Qualifications must be specifically indicated in writing and are subject to the approval of the City prior to acceptance. The signature below certifies your understanding and compliance with the Terms and Conditions contained in the Request for Statement of Qualifications package issued by the City.

Arizona Transaction (Sales) Privilege Tax License Number: _____	For clarification of this offer contact: Name: _____ Email: _____
Federal Employer Identification Number: _____	Telephone: _____
Company Name	Authorized Signature for Offer
Address	Printed Name
City State Zip Code	Title

INSTRUCTIONS TO OFFEROR

1. PREPARATION OF STATEMENT:

- a. Electronic or facsimile offers will not be considered.
- b. The offer document shall be submitted with an original ink signature by a person authorized to sign the offer.
- c. Erasures, interlineations, or other modifications in the offer shall be initialed in original ink by the authorized person signing the Offer.
- d. If price is a consideration and in case of error of prices in the offer, the unit price shall govern. No offer shall be altered, amended, or withdrawn after the specified offer due date and time.
- e. Periods of time, stated as a number of days, shall be calendar days.
- f. It is the responsibility of all Offerors to examine the entire Request for Statement of Qualifications package and seek clarification of any item or requirement and to check all responses for accuracy before submitting a bid. Negligence in preparing an offer confers no right of withdrawal after offer due date and time.

2. INQUIRIES: Any question related to the Request for Statement of Qualifications shall be directed in writing or via e-mail no later than five (5) days prior to the Request opening date, to the person whose name appears on the front. Questions submitted after that period may not be answered due to time constraints. Any correspondence related to a Request for Statement of Qualifications should refer to the appropriate Request for Statement of Qualifications ID, page, and paragraph number. These questions and answers will be communicated to all via a formal Addendum to the solicitation, posted on the City website as Q&A Clarifications. However, the Offeror shall not place the Request for Statement of Qualifications ID on the outside of any envelope containing questions since such an envelope may be identified as a sealed offer and may not be opened until after the official Request for Statement of Qualifications due date and time.

3. RSOQ OFFER FORMAT: One (1) unbound original document (label original) and five (5) bound paper copies of the offer shall be submitted in the format indicated in the Offer Format and Required Response section of the RSOQ. The Statement of Qualifications shall include a two-page transmittal/cover letter, pages to address the RSOQ evaluation criteria (excluding resumes but including an organization chart with key personnel and their affiliation). Resumes for each team member shall be limited to a maximum length of two (2) pages and should be attached as an appendix to the RSOQ. Please provide one (1) original and five (5) copies of the Statement of Qualifications by June 07, 2018, 2:00 p.m. AZ time. The City reserves the right to accept or reject any and all Statements of Qualification. The City is an equal opportunity employer. If a company wishes to submit a company brochure, this can be done under separate cover. The brochure will not be used in the selection process and may be retained in the City files.

4. DUE DATE AND TIME: Offerors must submit offers to the City's Purchasing Manager or designee by 2:00:00 pm Arizona Time on June 07, 2018, at the address or physical location listed on the Introduction/Offer Sheet (Page 1 of RSOQ). Late offers will not be accepted.

5. **RSOQ OFFER OPENING:** Offers shall be opened immediately following the time and at the place designated on the cover page of this document. The name of each Offeror and the identity of the Request for Statements of Qualifications for which the offer was submitted shall be publicly read and recorded in the presence of a witness. Offers, modifications, and all other information received in response of this Request for Statement of Qualifications shall be shown only to City personnel having legitimate interest in the evaluation. After award of the offer, the successful offer and the evaluation documentation shall be open for public inspection.
6. **WITHDRAWAL OF RSOQ OFFER:** At any time prior to the specified offer due date and time, an Offeror (or designated representative) may withdraw the offer. Facsimile offer withdrawals will not be considered.
7. **AMENDMENT OF RSOQ OFFER:** Receipt of an RSOQ Amendment shall be acknowledged by signing and returning the original document prior to the specified offer due date and time or with the submittal.
8. **PAYMENT:** The City will make every effort to process payment for the purchase of goods or services within thirty (30) calendar days after receipt of goods or services and a correct notice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account.
9. **TAXES:** The City of Maricopa is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate item.
10. **AWARD OF CONTRACT:** Notwithstanding any other provision of this Request for Statement of Qualifications, the City expressly reserves the right to:
 - a. Waive any immaterial defect or informality; or
 - b. Reject any or all offers, or portions thereof; or
 - c. Reissue a Request for Statement of Qualifications
 - d. Unless the Offeror states otherwise, the City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City. If the Offeror's offer is an "all or nothing" offer, it must be so indicated on the offer sheet.
11. **SELECTION SCHEDULE TIMETABLE:** This schedule below is subject to change as indicated below. Please refer to the City of Maricopa's website for any updates <http://www.maricopa-az.gov>

05/09/18	Issuance of Request for Statement of Qualifications
06/07/18	Responses to RSOQ due at 2:00 p.m. (Arizona Time)
06/21/18	Selection/Evaluation Committee selects Contractor(s)
07/17/18	City Council meeting to act on approval of a contract

12. **CONTACT WITH CITY EMPLOYEES AND CITY ELECTED OFFICIALS OR REPRESENTATIVES:** All firms interested in this project (including the firm's employees, representatives, agents, lobbyists, attorneys, and sub-consultants) will refrain, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process. This policy is intended to create a level playing field for all potential firms, assure that contract decisions are made in public and to protect the integrity of the selection process. All contact on this selection process should be addressed to the authorized representative identified below.

Please address all inquiries and questions to:
Kathleen Shipman, BSBA, CPPM
Purchasing Manager
Financial Services
City of Maricopa
39700 West Civic Center Plaza, Maricopa, AZ 85138
Kathleen.Shipman@maricopa-az.gov
520-316-6846

- 13. EVALUATION OF STATEMENT OF QUALIFICATIONS (SOQ):** The CM@R will be selected through a qualifications-based selection process, which will consist of two (2) and possibly three (3) evaluated elements:
- Statements of Qualifications (SOQs) submitted in response to this RSOQ
 - Reference verification of the finalists
 - Interviews of at least two (2) short-listed firms, if applicable

A Selection Committee will evaluate each RSOQ according to the criteria set forth below. Based on the evaluation criteria scoring (worth a maximum of 100 points), scores for each firm will be evaluated to determine the Best Qualified for the project.

If applicable, prior to conducting the interviews, the City will perform a reference verification process by contacting and interviewing the references provided by the shortlisted firms. The firms receiving the highest evaluation score from the selection panel may be selected to interview for the contract (shortlisted firms). The interview invitation letter will provide the evaluation criteria to be used. The City reserves the right to conduct personal interviews or require presentations of any or all offers prior to the selection of the best-qualified firm.

The City will enter into negotiations with the top ranked firm and execute a contract upon completion of negotiation of fees and contract terms. If the City is unsuccessful in negotiating a contract with the top ranked team, the City may then negotiate with the next lower ranked team until a contract is executed. The City may decide to terminate the selection process at any time.

The City of Maricopa shall evaluate offers based upon the following criteria listed below in relative order of importance. All respondents shall respond to the following items, which represent the weighted scoring criteria in the evaluation process. Responses to each of the criteria items below should begin on a new numbered page.

Evaluation Criteria:

I. Experience and qualifications of the firm (30 points)

- Provide a general description of the firm and that team that is proposing to provide the contracted services. Provide an organizational chart that shows key team members and identifies the location from which they will perform their work.
- Identify at least three comparable projects in which the firm served as the Construction Manager at Risk during design and construction phases (without providing construction services), and/or General Contractor. Special consideration will be given to firms that have provided Construction Manager at Risk services on similar successful projects.

- c. For each project identified, provide the following:
 - 1. Description of the project
 - 2. Role of the firm (specify whether Construction Manager at Risk or General Contractor. If Construction Manager at Risk or General Contractor, identify the percent of work self-performed. Also, specify services provided during design phase, i.e. cost estimating, scheduling, value engineering, etc.)
 - 3. Project's original contracted construction cost and final construction cost
 - 4. Construction dates
 - 5. Participation in partnering
 - 6. Project Owner
 - 7. Reference information (two names with current telephone numbers per project)
- d. Identify the location of the firm's principal office, and percent of the work to be done locally.

II. Experience of key personnel to be assigned to this project (30 points)

- a. For each key person identified, list their length of time with the firm and at least two (2) comparable projects in which they have played a primary role. If a project selected for a key person is the same as one selected for the firm, provide just the project name and the role of the key person. For other projects provide:
 - 1. Description of project
 - 2. Role of person
 - 3. Project's original contracted construction cost and final construction cost
 - 4. Construction dates
 - 5. Project owner
 - 6. Reference information (two names with current telephone numbers per project)
- b. List any proposed consultants, including key staff names and the experience and qualifications of these individuals.

III. Understanding of the project and approach to performing the required services (20 points)

- a. Discuss a basic scope of work you would utilize to accomplish all of the requirements contained within the Scope of Services. Note the major issues and potential risks your team has identified for this project and how you intend to address those issues.
- b. Describe systems used for planning, scheduling, estimating and managing construction. Briefly describe the firm's experience on partnering, quality control, dispute resolution, and safety management.
- c. Discuss the major issues your team has identified on this project and how you intend to address those issues
- d. Describe your firm's project management approach and team organization during pre-construction and construction phase services.

IV. General information (10 points)

- a. Provide a general description of the firm and/or team that is proposing to provide CM@R services and general construction services. Explain the legal organization of the proposed firm or team. Provide an organization chart showing key personnel.

- b. Provide the following information:
1. List the Arizona professional and contractor licenses held by the firm/team and the key personnel who will be assigned to this project. Provide the license number and explain if held by an individual or the firm (include in the appendix).
 2. Identify any contract or subcontract held by the firm or officers of the firm, which has been terminated within the last five years. Identify any claims arising from a contract that resulted in litigation or arbitration within the last three years. Briefly describe the circumstances and the outcomes.
 3. Provide a statement from an A- or better surety company to your company's bonding capacity. This information will be confidential and will not be made part of the public record. As indicated in Special Terms and Conditions, Item 10, this information will be returned to you (include in the appendix).

V. Overall evaluation of the firm, and its ability to provide required services (10 points)

An overall evaluation of the firm's capability to provide the required services as determined by the selection panel members. No additional submittal response is required.

- 14. DISCUSSIONS AND INTERVIEWS:** After the receipt of offers, discussions may be conducted with Offeror(s) who submit offers determined to be reasonably susceptible of being selected for award. The City reserves the right to conduct personal interviews or require presentation of any or all offers prior to selection or may recommend a firm for a contract award to the City Council based on the original RSOQ submittals. The City will not be liable for any costs incurred by the Offeror in connection with such interview/presentations.

A Selection/Evaluation Committee will evaluate each Statement of Qualifications (SOQ) according to the above criteria. The Selection/Evaluation Committee, at its sole discretion, may select up to three (3) finalists that will be shortlisted for interviews, or may select a firm/team based solely on the scoring of the SOQs and reference checks.

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STANDARD TERMS AND CONDITIONS

- 1. CERTIFICATION:** By signature in the Offer section of the Offer Award Page, the Offeror certifies that:
 - a. The submission of the offer did not involve collusion or other anti-competitive practices.
 - b. The Offeror shall not discriminate against any employee or applicant for employment in violation of the Federal Executive Order 11246.
 - c. The Offeror has not given, offered to give, or 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 sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the Offeror may be debarred.

- 2. GRATUITIES:** The City may, by written notice to the Offeror, cancel the resultant contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Offeror or any agent or representative of the Offeror, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event the City pursuant to this provision cancels the resultant contract, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of gratuity. Paying the expense of normal business meals, which are generally made available to all eligible city government customers, shall not be prohibited by this paragraph.

- 3. APPLICABLE LAWS:** In the performance of the resultant contract, Contractors shall abide by and conform to any and all laws of the United States, State of Arizona, and the City of Maricopa including but not limited to federal and state executive orders providing for equal opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to the contract.
 - a. The resultant contract shall be governed by the State of Arizona and suit pertaining to the contract may be brought only in courts in the State of Arizona.
 - b. This contract is subject to the following provisions as stated:
 - i. A.R.S §38-511: the City may cancel the contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
 - ii. A.R.S §35-393.01: All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recently legislation has been enacted to prohibit the state from contracting with companies currently engaged in a boycott of Israel. To ensure compliance with A.R.S §35-393.01. This form must be completed and returned with the response to the solicitation and any supporting information to assist the State in making its determination of compliance. As defined by A.R.S §35-393.01 and explained in Chapter 46, House Bill 2617 and outlined in Exhibit A:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, Limited Liability Company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) Together with other investors that are not subject to this section.
 - (b) That are held in an index fund.
5. "Public entity" means this State, a political subdivision of this STATE or an agency, board, commission or department of this state or a political subdivision of this state.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

4. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Maricopa Procurement Code.
5. **CONTRACT:** The resultant contract between the City of Maricopa and the Contractor shall include:
 - a. RSOQ including instructions, all terms and conditions, specifications, scope of work, attachments, and any amendments thereto,
 - b. The offer submitted by the Offeror in response to the RSOQ and any additional changes or amendments mutually negotiated.

The City of Maricopa Scope of Services is provided with the solicitation. It is the Offeror's responsibility to review these documents and identify any conflicts/issues as part of the proposal. Please note that the Contract is subject to revisions suggested by the City Council.

In event of a conflict in language between the RSOQ and the Contract, the provisions and requirements of the Contract shall govern. However, the City reserves the right to clarify in writing, any contractual terms with the concurrence of the Offeror, and such a written contract shall govern in case of conflict with the applicable requirements stated in the Contract or the Offeror's offer. The RSOQ shall govern in all other matters not affected by the written contract.

- 6. CONTRACT APPLICABILITY:** The Offeror shall substantially conform to the terms, conditions, specifications, and other requirements found within the text of this specific RSOQ. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the City, are not applicable to this RSOQ or any resultant contract.
- 7. RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Offeror is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Offeror should arrange to pay directly such expenses, if any.
- 8. SUBCONTRACTS:** The Contractor shall enter into no subcontract with any other party to furnish any of the material, service, or construction specified herein **without the advance written approval of the City**. The Contractor is responsible for contract performance whether Subcontractors are used or not.
- 9. INDEMNIFICATION:** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of the resultant Contract. Contractor's duty to defend, hold harmless, and indemnify the City, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense, that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of the resultant including any employee of the Contractor or any tier of subcontractor or any other person whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable. The amount and type of insurance coverage requirements set forth will in no way be construed as limiting the scope of the indemnity in this paragraph.
- 10. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the contractor hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the contract.
- 11. FORCE MAJEURE:** Except for payment for sums due, neither party shall be liable to the other not deemed in default under the resultant contract if and to the extent that such party's performance of the 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; floods; 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.

The force majeure shall be deemed to commence when such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with the resultant contract. Force Majeure shall not include the following occurrences:

- a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
- b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

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. If either party is delayed at any time in the progress of work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *certificate-return receipt* and shall make 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. The time of completion shall be extended by contract modification for a period equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with the resultant contract.

- 12. RIGHT TO ASSURANCE:** Whenever one party to the resultant contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
- 13. RIGHT TO AUDIT RECORDS:** The City may, at reasonable times and places, audit the books and records of any contractor as related to any contract held with the City.
- 14. RIGHT TO INSPECT PLACE OF BUSINESS:** The City may, at reasonable times, inspect the place of business of a contractor or subcontractor that is related to the performance of any contract as awarded or to be awarded.
- 15. INSPECTION:** All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of the resultant contract will be held at Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. They may elect to do any or all:
 - a. Waive the non-conformance
 - b. Stop the work immediately
 - c. Bring material into compliance

This shall be accomplished by a written determination for the City.

- 16. LIENS:** All materials, service or construction shall be free of all liens, and if the City requests, a formal release of all liens shall be delivered to the City.
- 17. LICENSES:** Contractor shall maintain all Federal, State, and Local Licenses and permits required for the operation of the business conducted by the contractor. This shall include a City of Maricopa Business License.
- 18. PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this RSOQ are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City.
- 19. COST OF BID/OFFER:** The City shall not reimburse the cost of developing or providing any response to this RSOQ. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.
- 20. PUBLIC RECORD:** All offers submitted in response to this RSOQ shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.
- 21. TERMINATION FOR NON-APPROPRIATION:** Any contract entered into by the City shall terminate at the end of the then current fiscal period for non-appropriation of funds if the City's governing body fails to appropriate funds to pay for the payments contemplated by the contract. The City's fiscal period ends June 30th of each year.
- 22. WARRANTIES:** Vendor warrants that all goods delivered under this contract will conform to the requirements of this contract (including all applicable descriptions, specifications, drawings and samples), and will be free from defects in material and workmanship and will be free from defects in design and fit for the intended purpose. Any inspection or acceptance of the goods by Buyer shall not alter or affect the obligation of vendor or the right of Buyer under the foregoing warranties.
- 23. COOPERATIVE USE OF CONTRACT:** In addition to the City of Maricopa and with the approval of the contracted vendor, this contract may be extended for use by other municipalities, school districts and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.
- 24. A.R.S § 35-392:** The City is prohibited from purchasing for a company that is in violation of the Export Administration Act.
- 25. COMPLIANCE WITH ARIZONA REVISED STATUTES (A.R.S.):** Procurement of professional services by a municipality within the State of Arizona is governed by A.R.S Title 34. By submitting an RSOQ under this solicitation, the submitter certifies that said submittal and their conduct in relation to this solicitation complies with the requirements of A.R.S Title 34.

26. FEDERAL IMMIGRATION AND NATIONALITY ACT (FINA): By entering into the Contract, the Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Purchasing Manager upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract. I-9 forms are available for download at www.USCIS.GOV.

The City may request verification of compliance for any Contractor or subcontractor performing work under the Contract. Should the City suspect or find that the Contractor or any of its subcontractors are not in compliance, the City 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. All costs necessary to verify compliance are the responsibility of the Contractor.

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SPECIAL TERMS AND CONDITIONS

1. **AUTHORITY:** This solicitation as well as any resultant contract is issued under the authority of the City. No alteration of any resultant contract may be made without the express written approval of the City in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.
2. **TERM OF CONTRACT:** The term of any resultant contract shall commence upon issuance of a contract awarded by the City of Maricopa City Council and shall continue until completion of the project, unless terminated, cancelled or extended as otherwise provided herein.
3. **KEY PERSONNEL:** It is essential the Contractor provide adequate experienced personnel capable of and devoted to the successful accomplishment of work to be performed under any resultant contract. The Contractor must agree to assign specific individuals to the key positions.
 - a. The Contractor agrees that, once assigned to work under any resultant contract, key personnel shall not be removed or replaced without written notice to the City.
 - b. If key personnel are not available for work under any resultant contract for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.
4. **CONFIDENTIAL INFORMATION:** If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld, a statement advising the Finance Director of this fact shall accompany the submission and the information shall be identified. The information identified by the person as confidential shall not be disclosed until the Finance Director makes a written determination.
5. **CONFIDENTIALITY OF RECORDS:** The contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that information contained in its records or obtained from the City remains confidential pursuant to applicable requirements.
6. **RESULTANT CONTRACT:** The City will enter into negotiations with the selected firm and execute a contract upon completion of negotiation of fees and contract terms for City Council approval. If the City is unsuccessful in negotiating a contract with the best-qualified team, the City may then negotiate with the second or third most qualified team until a contract is executed, or may decide to terminate the selection process. A contract shall be issued between the City and the successful Offeror(s) following award by the City Council.
7. **COMPENSATION EVALUATION:** Pursuant to A.R.S 34-103, *et. seq.*, the most qualified firm or person(s) shall be asked for priced proposals. In the event an agreement cannot be established with the top ranked firm or person(s), the negotiations shall be terminated and the next highest ranked firm or person(s) shall be asked for a priced proposal. This process shall continue in turn with the highest ranked and qualified firm or person(s) until an agreement is reached.

- 8. LIQUIDATED DAMAGES:** Liquidated damages shall be negotiated at the time of the contract negotiations for each calendar day of delay.
- If the contract is not terminated, the contractor shall continue performance and be liable to the City for the liquidated damages until the products are delivered or services performed.
 - In the event that the City exercises its right of termination, the contractor shall be liable to the City for any excess costs, in addition to the liquidated damages until such time the City may reasonably obtain delivery or performance of similar supplies or services from another supplier.
- 9. INSURANCE:** The City requires a complete and valid certificate of insurance prior to the commencement of any service or activity specified in this solicitation. The City will notify the successful contractor(s) of the intent to issue a contract award. The successful contractor(s) shall submit a copy of the insurance certificate for coverage with minimum amounts stated. The coverage shall be maintained in full force and effect during the term of the contract and shall not serve to limit any liabilities or any other contractor obligations.
- 10. BONDS:** Firms are to submit one copy of a statement from an A- or better surety company to the Company's bonding capacity. This statement and a self-addressed stamped envelope (for return of the confidential material) shall be submitted with the RSOQ packet in a separate sealed envelope, marked "CONFIDENTIAL". The outside of this sealed envelope should identify the firm and the project.

The successful Contractor will be required to provide a Bid Bond or Security made payable to the OWNER for an amount not less than ten percent (10%) of Bidder's Base Bid and Bid Alternates, and in the form of a certified or cashier's check. The Bid Bond or Security shall be issued by surety company or companies holding a certificate of authority to transact surety business in the State of Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1. The Bid Bond or Security shall not be executed by an individual surety or sureties. Bid Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

When the Successful Bidder delivers the executed Agreement to OWNER, it must be accompanied by the required Payment and Performance Bonds issued by surety company or companies holding a certificate of authority to transact surety business in the State of Arizona issued by the Director of the Department of Insurance pursuant to Arizona Revised Statutes Title 20, Chapter 2, Article 1. The bonds shall not be executed by an individual surety or sureties. Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

The surety company or companies shall be rated A- or better per current A.M. Best Company ratings.

- 11. CONTRACT CANCELLATION:** The City reserves the right to cancel the whole or any part of any resultant contract due to failure by the contractor to carry out any obligation, term or condition of any resultant contract. The City will issue written notice to the contractor for acting or failing to act as in any of the following:
- The contractor provides material that does not meet the specifications of the contract
 - The contractor fails to adequately perform the services set forth in the specifications of the contract
 - The contractor fails to complete the work required or to furnish the materials required within the time stipulated in the contract
 - The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract

Upon receipt of the written notice of concern, the contractor shall have ten (10) days to provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies:

- a. Cancel any contract
- b. Reserve all rights or claims to damage for breach of any covenants of the contract
- c. Perform any test or analysis on materials for compliance with the specifications of the contract. If the results of any test or analysis find a material non-compliance with the specifications, the actual expense of testing shall be borne by the contractor.

In case of default, the City reserves the right to purchase materials, or to complete the required work. The City may recover any actual excess costs from the contractor by:

- a. Deduction from an unpaid balance
- b. Collection against the bid and/or performance bond, or
- c. Any combination of the above or any other remedies as provided by law

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SCOPE OF SERVICES

1. **BACKGROUND:** The City of Maricopa is seeking a qualified Construction Manager at Risk to provide pre-construction services assistance, and to complete construction services as the Construction Manager at Risk for the City of Maricopa Fire/Medical Administration Facility.
2. **PROJECT DESCRIPTION:** The City of Maricopa intends to provide a new Fire/Medical Administration Facility, complete with the required infrastructure, floor space, storage, technology, and environmental features to provide a reliable, efficient, safe and secure facility to meet the current and future demands of the City. The new Fire/Medical Administration Site is to be located at the northwest corner of Garvey Avenue and Estrella Parkway (see Exhibit B). The project will likely require utility infrastructure improvements including, but not necessarily limited to water, sewer, power, communications, etc. Construction will likely include a new building, complete with the latest technology, furniture, fixtures, and equipment necessary to house a new state-of-the-art facility. The City may include other miscellaneous improvements at the site, as needed.

The total estimated project budget is \$5,000,000, which includes, but may not be limited to design services, furniture, fixtures and equipment, and construction. The City anticipates completing construction by April 2020.

The anticipated project milestones will be as follows:

- a. CM@R Selection, July 2018
- b. Design Services, August 2018 – July 2019
- c. Construction Services, August 2019 – April 2020

3. **SCOPE OF WORK:** It is anticipated that the Construction Manager at Risk will participate in Pre-Construction Services and Construction Services for this project.
 - a. Pre-Construction Services by the CM@Risk may include, but not be limited to the following:
 - i. Lead project planning and scheduling for both the design and construction phases;
 - ii. Provide for construction phasing and scheduling;
 - iii. Provide alternative systems evaluation and constructability studies;
 - iv. Advise the City of ways to gain efficiencies in project delivery and reduce overall delivery time;
 - v. Provide long-lead procurement studies and initiate procurement of long-lead items;
 - vi. Participate in partnering sessions with the project team;
 - vii. Participate in regular scheduled project coordination meetings;
 - viii. Participate in constructability reviews at various levels of design;
 - ix. Provide value engineering;
 - x. Provide detailed cost estimating and knowledge of marketplace conditions;
 - xi. Develop and maintain the project cost model;
 - xii. Concur with plans and specifications prior to construction;
 - xiii. Submit a Guaranteed Maximum Price (GMP) for City review and negotiation
 - b. Construction services by the CM@R may include, but not be limited to:
 - i. Serve as the general contractor during construction;
 - ii. Coordinate with various utilities;
 - iii. Arrange for procurement of materials and equipment;
 - iv. Schedule and manage site operations;
 - v. Provide quality controls;

- vi. Bond and insure the construction;
 - vii. Comply with all federal, state and local permitting requirements;
 - viii. Maintain a safe work site for all project participants; and
 - ix. Provide commissioning and closeout services, if applicable
4. **RSOQ INSTRUCTIONS:** Please provide a written response to the Evaluation Criteria, page 4, Item #13, in the defined format. The responses will be used to evaluate your organization. Written responses should be mailed or hand delivered to the address below by June 07, 2018, 2:00 pm AZ time. No faxed or e-mailed responses will be accepted. The organization's authorized representative must sign the response.

If you have questions regarding this Request for Statement of Qualifications, please email them to:
City of Maricopa
Financial Services Department
ATTN: Kathleen M. Shipman, Purchasing Manager
Email: Kathleen.Shipman@maricopa-az.gov

All questions and answers will be posted on the City website.

Please submit one (1) unbound original and five (5) bound signed responses to:
City of Maricopa
39700 W. Civic Center Plaza
Maricopa, Arizona 85138
ATTN: Kathleen Shipman, Purchasing Manager

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QUALIFICATIONS FORMAT AND REQUIRED RESPONSES

The information set forth in paragraphs below must be included with all offers. Failure to provide any of the information requested by these paragraphs is grounds for the City to reject an offer.

In order for the City to conduct a uniform review process, all offers must be submitted in the format set forth below. Failure to follow this format may be cause for rejection.

The Statements of Qualifications should include a two-page letter of transmittal/cover letter plus a maximum of twelve (12) pages, plus appendix, to address the RSOQ evaluation criteria included in Section 13, starting on Page 4 of this RSOQ. The core section of the response will include comprehensive responses to the RSOQ evaluation criteria specified herein. Resumes for each key team member shall be limited to a maximum length of two (2) pages and should be attached as an appendix to the Offer. An unbound original plus five (5) bound paper copies of the Statement of Qualifications must be submitted to the Purchasing Manager at the Maricopa City Hall, 39700 W. Civic Center Plaza, Maricopa, AZ 85138 at 2:00 PM Arizona Time by June 07, 2018, 2:00 p.m. AZ time.

Interested teams are invited to respond in writing to:

Kathleen M. Shipman, Purchasing Manager
City of Maricopa
Financial Services Department
39700 W. Civic Center Plaza
Maricopa, AZ 85138

1. **RSOQ CRITERIA:** Please be advised that failure to comply with the following criteria will be grounds for disqualification and will be strictly enforced. Receipt of a complete and signed submittal shall include the following:
 - a. Receipt of submittal by the specified cut-off date and time
 - b. The number of originals and/or copies of the submittal specified
 - c. Deposit of submittal in correct location
 - d. Providing a signed copy of amendments, if any, in response to this RSOQ. It will be the interested firm's responsibility to check the website <http://www.maricopa-az.gov> for any updates, including amendments
 - e. Adherence to maximum page limitations
2. **OFFER SHEET:** The attached Introduction/Offer Sheet (Page 1 of RSOQ) must be completed and returned with the Company's offer. Failure to return the Offer Sheet and to sign it is grounds for the City to reject an offer.
3. **TABLE OF CONTENTS:** The Table of Contents must indicate the material included in the offer by section and page number. An offer's table of contents should mirror this section of the City's Request for Statement of Qualifications and must include all the items set forth in this section of the Request for Statement of Qualifications.
4. **LETTER OF TRANSMITTAL (Limit to two (2) pages):** A letter of transmittal must be submitted with a Company's offer. The letter must include:
 - a. A statement of the Offeror's understanding of the products and services required by the Request for Statement of Qualifications listed in the scope of work.

- b. The names of the persons who are authorized to make representations on behalf of the Offeror (include their titles, addresses, fax number, e-mail addresses and telephone numbers).
 - c. A statement that the individual who signs the transmittal letter is authorized to bind the Offeror to contract with the City.
- 5. FIRM OVERVIEW (Excluding attachments, limit to two pages):**
- a. Primary line of business? Provide a general description of the firm and/or team that is proposing.
 - b. Does your firm have at least one office located in the State of Arizona?
 - c. Discuss the structure of your firm. If a private firm, state whether a corporation, partnership, sole proprietorship, or combination. Provide a listing of all principals and/or owners. Indicate the length of time the firm has been in business under the current business name as well as any previous business names.
 - d. Resumes for each key team member shall be limited to a maximum length of two (2) pages and should be attached as an appendix to the Statement of Qualifications.
- 6. BONDS:** Firms are to submit one copy of a statement from an A- or better surety company to the Company's bonding capacity. This statement and a self-addressed stamped envelope (for return of the confidential material) shall be submitted with the RSOQ packet in a separate sealed envelope, marked "CONFIDENTIAL". The outside of this sealed envelope should identify the firm and the project.
- 7. LICENSED CONTRACTOR:** Contractor shall provide documentation that the Offeror is licensed under the applicable laws of the State of Arizona. Please include copies of any and all licenses held by members of the Project Team (include in appendix).
- 8. EVALUATION CRITERIA:** Please address all of the items listed in the evaluation criteria, beginning on page 4 of the "Instructions of Offerors", Item #13.
- 9. SCOPE OF SERVICES:** Based on the defined Scope of Services as listed starting on page 16 please provide a summary response as to how your firm anticipates achieving the required services.
- 10. SUBSTITUTE W-9 FORM:** Complete and return the attached City of Maricopa Substitute W-9 form (Attachment A).
- 11. PARTICIPATION IF BOYCOTT OF ISRAEL:** Complete and sign the form (Attachment B)
- 12. DISCLOSURES OF CONFLICT OF INTEREST: (Limit to one page):** The offeror shall include a statement that no conflicts of interest exist as defined by Arizona Revised Statutes, Title 38, Chapter 3, Article 8. In the event any professional or personal financial interest, does exist the nature of the relationship shall be disclosed to the City and examined by the City of the material facts of the disclosure. The above reference statute shall govern the actions of the city in the event a conflict exists.
- 13. PROPOSED FEES/COMPENSATION:** Not applicable at this time.

VENDOR SUBMITTAL CHECKLIST

- _____ One (1) unbound original, marked, and five (5) bound paper copies, marked
- _____ Signed Offer Sheet
- _____ Table of Contents
- _____ Signed Letter of Transmittal/Cover Letter – 2 pages
- _____ Firm Overview – 2 pages
- _____ Organizational Chart
- _____ Key Personnel Experience
- _____ Understanding of the Project
- _____ Confidential Information Statement
- _____ Summary response to the Scope of Services
- _____ Address the Evaluation Criteria as defined within
- _____ Completed and signed Substitute W-9, Attachment A
- _____ Completed and signed PARTICIPATION IF BOYCOTT OF ISRAEL, Attachment B
- _____ Resumes – Two (2) pages each
- _____ Disclosure of Conflict of Interest
- _____ References, including short description of services provided
- _____ Addendums, signed (and completed if applicable)

ATTACHMENT A

(Page 1 of 2)

SUBSTITUTE W-9 FORM

PART I: COMPANY INFORMATION:

1. Name (as shown on Income Tax Return): _____
2. Business Name (if different from above): _____
3. DUNS #: _____
4. Federal employer identification number (or SSN): _____
5. Type of organization (check one):

<input type="checkbox"/> Individual/Sole Proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other: _____	<input type="checkbox"/> Limited Liability Company* *Choose the tax classification <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership
--	---
6. Order Address:

(Order address)	(City)	(State)	(Zip code)
-----------------	--------	---------	------------
7. Remittance address (if different from above):

(Remittance address)	(City)	(State)	(Zip code)
----------------------	--------	---------	------------
8. Contact person for bid invitations: _____
9. Phone Number: _____ Fax Number: _____
10. Email address of contact person: _____
11. Applicant is a (check one):

<input type="checkbox"/> Factory Representative <input type="checkbox"/> Manufacturer <input type="checkbox"/> Retail dealer <input type="checkbox"/> Consultant	<input type="checkbox"/> Jobber <input type="checkbox"/> Authorized distributor <input type="checkbox"/> Contractor <input type="checkbox"/> Other: _____
---	--
12. Indicate if the business is registered as a minority or woman-owned company.

<input type="checkbox"/> Minority-owned	<input type="checkbox"/> Woman-owned	<input type="checkbox"/> Not Applicable
---	--------------------------------------	---
13. How long has the company been in business? _____
14. Does applicant currently hold a valid business license issued by the City of Maricopa?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

ATTACHMENT A

(Page 2 of 2)

SUBSTITUTE W-9 FORM

PART II: COMMODITY OR SERVICE DESCRIPTION

COMMODITY/SERVICE DESCRIPTION *(this section must be completed):*

PART III: APPLICANT TERMS & CERTIFICATION

Terms:

The City of Maricopa may take up to 30 calendar days after the receipt of vendor's invoice to render payment unless other arrangements are made through a written contract. Applicant's signature below signifies acceptance of those terms.

Under Penalties of perjury, I certify that:

1. The number shown on this form is my correct federal employer identification number.
2. I am not subject to backup withholding because of failure to report interest and dividend income.
3. I am a U.S. person (including a U.S. resident alien).
(NOTE: You must cross out item 2. above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return).

4. The following business ownership classifications are applicable:

Disadvantaged Business Enterprise Ownership Classification (Select Only One (1)):

- | | |
|--|--|
| <input type="checkbox"/> 1 Non-Small/Non-Minority/Non-Disabled | <input type="checkbox"/> 8 Small Business/Disabled Owner |
| <input type="checkbox"/> 2 Small Business (Per A.R.S §41-1001.14) | <input type="checkbox"/> 9 Minority Woman Owned Business |
| <input type="checkbox"/> 3 Minority Owned Business [Per 15 CFR §1400.1(a)] | <input type="checkbox"/> 10 Disabled-Minority Owned Business |
| <input type="checkbox"/> 4 Woman Owned Business | <input type="checkbox"/> 11 Disabled-Woman Owned Business |
| <input type="checkbox"/> 5 Owned By Disabled Individual (Per A.R.S §41-1492.5) | <input type="checkbox"/> 12 Small Business/Minority-Woman Owned |
| <input type="checkbox"/> 6 Small Business/Minority Owned | <input type="checkbox"/> 13 Small Business/Disabled-Minority Owned |
| <input type="checkbox"/> 7 Small Business/Woman Owned | <input type="checkbox"/> 14 Small Business/Disabled-Minority-Woman Owned |

"The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding."

Name *(Please print)*

Signature

Title *(Please print)*

Date

ATTACHMENT B
PARTICIPATION IF BOYCOTT OF ISRAEL

	Participation if Boycott of Israel		State of Arizona State Procurement Office 100 N. 15th Ave., Suite 201 Phoenix, AZ 85007
		PAGE 1 OF 1	

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recently legislation has been enacted to prohibit the state from contracting with companies currently engaged in a boycott of Israel. To ensure compliance with A.R.S. §35-393.01 This form must be completed and returned with the response to the solicitation and any supporting information to assist the State in making its determination of compliance.

As defined by A.R.S. §35-393.01:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) together with other investors that are not subject to this section.
 - (b) that are held in an index fund.
5. "Public entity" means this State, a political subdivision of this STATE or an agency, board, commission or department of this state or a political subdivision of this state.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

All offerors must select one of the following:

_____ My company **does not** participate in, and agrees not to participate in during the term of the contract a boycott of Israel in accordance with A.R.S. §35-393.01. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.

_____ My company **does** participate in a boycott of Israel as defined by A.R.S. §35-393.01. :

By submitting this response, proposer agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the State's action based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the State in defending such an action.

_____	_____
Company Name	Signature of Person Authorized to Sign
_____	_____
Address	Printed Name
_____	_____
City	Title
State	
Zip	

SPO Form 205 - Israel Boycott Affidavit

EXHIBIT A

(Page 1 of 4)

**HOUSE BILL 2617/CHAPTER 46
Senate Engrossed House Bill**

State of Arizona House of Representatives Fifty-second Legislature Second Regular Session 2016

AN ACT

**AMENDING TITLE 35, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9;
RELATING TO PUBLIC CONTRACTS AND INVESTMENTS.**

Senate Engrossed House Bill

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 46

HOUSE BILL 2617

AN ACT

**AMENDING TITLE 35, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9;
RELATING TO PUBLIC CONTRACTS AND INVESTMENTS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

EXHIBIT A

(Page 2 of 4)

HOUSE BILL 2617/CHAPTER 46
Senate Engrossed House Bill

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 35, chapter 2, Arizona Revised Statutes, is amended
3 by adding article 9, to read:
4 ARTICLE 9. ISRAEL BOYCOTT DIVESTMENTS
5 35-393. Definitions
6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
7 1. "BOYCOTT" MEANS ENGAGING IN A REFUSAL TO DEAL, TERMINATING BUSINESS
8 ACTIVITIES OR PERFORMING OTHER ACTIONS THAT ARE INTENDED TO LIMIT COMMERCIAL
9 RELATIONS WITH ISRAEL OR WITH PERSONS OR ENTITIES DOING BUSINESS IN ISRAEL OR
10 IN TERRITORIES CONTROLLED BY ISRAEL, IF THOSE ACTIONS ARE TAKEN EITHER:
11 (a) IN COMPLIANCE WITH OR ADHERENCE TO CALLS FOR A BOYCOTT OF ISRAEL
12 OTHER THAN THOSE BOYCOTTS TO WHICH 50 UNITED STATES CODE SECTION 4607(c)
13 APPLIES.
14 (b) IN A MANNER THAT DISCRIMINATES ON THE BASIS OF NATIONALITY,
15 NATIONAL ORIGIN OR RELIGION AND THAT IS NOT BASED ON A VALID BUSINESS REASON.
16 2. "COMPANY" MEANS A SOLE PROPRIETORSHIP, ORGANIZATION, ASSOCIATION,
17 CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED PARTNERSHIP, LIMITED
18 LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY OR BUSINESS
19 ASSOCIATION, AND INCLUDES A WHOLLY OWNED SUBSIDIARY, MAJORITY-OWNED
20 SUBSIDIARY, PARENT COMPANY OR AFFILIATE.
21 3. "DIRECT HOLDINGS" MEANS ALL PUBLICLY TRADED SECURITIES OF A COMPANY
22 THAT ARE HELD DIRECTLY BY THE STATE TREASURER OR A RETIREMENT SYSTEM IN AN
23 ACTIVELY MANAGED ACCOUNT OR FUND IN WHICH THE RETIREMENT SYSTEM OWNS ALL
24 SHARES OR INTERESTS.
25 4. "INDIRECT HOLDINGS" MEANS ALL SECURITIES OF A COMPANY THAT ARE HELD
26 IN AN ACCOUNT OR FUND, INCLUDING A MUTUAL FUND, THAT IS MANAGED BY ONE OR
27 MORE PERSONS WHO ARE NOT EMPLOYED BY THE STATE TREASURER OR A RETIREMENT
28 SYSTEM, IF THE STATE TREASURER OR RETIREMENT SYSTEM OWNS SHARES OR INTERESTS
29 EITHER:
30 (a) TOGETHER WITH OTHER INVESTORS THAT ARE NOT SUBJECT TO THIS
31 SECTION.
32 (b) THAT ARE HELD IN AN INDEX FUND.
33 5. "PUBLIC ENTITY" MEANS THIS STATE, A POLITICAL SUBDIVISION OF THIS
34 STATE OR AN AGENCY, BOARD, COMMISSION OR DEPARTMENT OF THIS STATE OR A
35 POLITICAL SUBDIVISION OF THIS STATE.
36 6. "PUBLIC FUND" MEANS THE STATE TREASURER OR A RETIREMENT SYSTEM.
37 7. "RESTRICTED COMPANIES" MEANS COMPANIES THAT BOYCOTT ISRAEL.
38 8. "RETIREMENT SYSTEM" MEANS A RETIREMENT PLAN OR SYSTEM THAT IS
39 ESTABLISHED BY OR PURSUANT TO TITLE 38.
40 35-393.01. Contracting; procurement; investment; prohibitions
41 A. A PUBLIC ENTITY MAY NOT ENTER INTO A CONTRACT WITH A COMPANY TO
42 ACQUIRE OR DISPOSE OF SERVICES, SUPPLIES, INFORMATION TECHNOLOGY OR
43 CONSTRUCTION UNLESS THE CONTRACT INCLUDES A WRITTEN CERTIFICATION THAT THE
44 COMPANY IS NOT CURRENTLY ENGAGED IN, AND AGREES FOR THE DURATION OF THE
45 CONTRACT TO NOT ENGAGE IN, A BOYCOTT OF ISRAEL.

EXHIBIT A

(Page 3 of 4)

HOUSE BILL 2617/CHAPTER 46 Senate Engrossed House Bill

1 B. A PUBLIC ENTITY MAY NOT ADOPT A PROCUREMENT, INVESTMENT OR OTHER
2 POLICY THAT HAS THE EFFECT OF INDUCING OR REQUIRING A PERSON OR COMPANY TO
3 BOYCOTT ISRAEL.

4 35-393.02. Investment; restricted companies list; notice;
5 immunity; exception

6 A. ON OR BEFORE APRIL 1 OF EACH YEAR, EACH PUBLIC FUND SHALL PREPARE A
7 LIST OF RESTRICTED COMPANIES AND SHALL PROVIDE A COPY OF THE LIST ON REQUEST.

8 B. IN PREPARING THE LIST OF RESTRICTED COMPANIES, THE PUBLIC FUND MAY
9 CONSIDER AT LEAST THE FOLLOWING:

10 1. PUBLICLY AVAILABLE INFORMATION, INCLUDING INFORMATION PROVIDED BY
11 NONPROFIT ORGANIZATIONS, RESEARCH FIRMS AND GOVERNMENT ENTITIES.

12 2. INFORMATION PREPARED BY AN INDEPENDENT RESEARCH FIRM RETAINED BY
13 THE PUBLIC FUND.

14 3. A STATEMENT BY A COMPANY THAT IT IS PARTICIPATING IN A BOYCOTT OF
15 ISRAEL OR THAT IT HAS TAKEN A BOYCOTT ACTION AT THE REQUEST OF, IN COMPLIANCE
16 WITH OR IN FURTHERANCE OF CALLS FOR A BOYCOTT OF ISRAEL.

17 C. THE PUBLIC FUND SHALL NOTIFY EACH COMPANY THAT IS INCLUDED ON THE
18 LIST OF RESTRICTED COMPANIES THAT THE COMPANY IS SUBJECT TO DIVESTMENT BY THE
19 STATE TREASURER AND THE RETIREMENT SYSTEMS.

20 D. IF A COMPANY THAT RECEIVES NOTICE PURSUANT TO SUBSECTION C OF THIS
21 SECTION SUBMITS A WRITTEN CERTIFICATION TO THE PUBLIC FUND THAT IT HAS CEASED
22 ITS BOYCOTT OF ISRAEL AND WILL NOT ENGAGE IN A BOYCOTT OF ISRAEL FOR THE
23 PERIOD OF TIME THAT THE STATE TREASURER OR A RETIREMENT SYSTEM INVESTS IN THE
24 COMPANY, THE PUBLIC FUND SHALL REMOVE THE COMPANY FROM THE RESTRICTED LIST.

25 E. EACH PUBLIC FUND SHALL:

26 1. SELL, REDEEM, DIVEST OR WITHDRAW ALL DIRECT HOLDINGS OF A
27 RESTRICTED COMPANY FROM THE ASSETS UNDER ITS MANAGEMENT IN AN ORDERLY AND
28 FIDUCIALLY RESPONSIBLE MANNER WITHIN THREE MONTHS AFTER PREPARING THE LIST OF
29 RESTRICTED COMPANIES PURSUANT TO SUBSECTION A OF THIS SECTION. ON OR BEFORE
30 AUGUST 1 OF EACH YEAR, THE STATE TREASURER AND EACH RETIREMENT SYSTEM SHALL
31 POST ON THEIR WEBSITES A LIST OF INVESTMENTS THAT ARE SOLD, REDEEMED,
32 DIVESTED OR WITHDRAWN PURSUANT TO THIS PARAGRAPH.

33 2. NOT ACQUIRE SECURITIES OF A RESTRICTED COMPANY AS PART OF ITS
34 DIRECT HOLDINGS.

35 3. REQUEST THAT MANAGERS OF ITS INDIRECT HOLDINGS CONSIDER SELLING,
36 REDEEMING, DIVESTING OR WITHDRAWING HOLDINGS OF A RESTRICTED COMPANY FROM THE
37 ASSETS UNDER ITS MANAGEMENT.

38 F. WITH RESPECT TO ANY ACTION PERFORMED PURSUANT TO THIS SECTION, THE
39 STATE TREASURER, EACH RETIREMENT SYSTEM AND ANY PERSON ACTING ON BEHALF OF
40 THE STATE TREASURER OR THE RETIREMENT SYSTEM:

41 1. ARE EXEMPT FROM ANY CONFLICTING STATUTORY OR COMMON LAW OBLIGATION
42 OR FIDUCIARY DUTIES WITH RESPECT TO CHOICE OF ASSET MANAGERS, INVESTMENT
43 FUNDS OR INVESTMENTS.

44 2. ARE SUBJECT TO TITLE 12, CHAPTER 7, ARTICLE 2 REGARDING IMMUNITY
45 FOR ACTS AND OMISSIONS.

EXHIBIT A

(Page 4 of 4)

HOUSE BILL 2617/CHAPTER 46
Senate Engrossed House Bill

1 3. ARE INDEMNIFIED AND HELD HARMLESS BY THIS STATE FROM CLAIMS,
2 DEMANDS, SUITS, ACTIONS, DAMAGES, JUDGMENTS, COSTS, CHARGES AND EXPENSES,
3 INCLUDING ATTORNEY FEES, AND AGAINST ALL LIABILITY, LOSSES AND DAMAGES
4 BECAUSE OF A DECISION TO SELL, REDEEM, DIVEST OR WITHDRAW HOLDINGS OF A
5 RESTRICTED COMPANY MADE PURSUANT TO THIS SECTION.

6 G. THIS SECTION DOES NOT APPLY TO INVESTMENTS THAT ARE MADE BY THE
7 STATE TREASURER PURSUANT TO SECTION 35-314.01.

8 35-393.03. Severability

9 IF ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR
10 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT ANY OTHER
11 PROVISION OR APPLICATION OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE
12 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
13 ARTICLE ARE SEVERABLE.

14 Sec. 2. Legislative findings

15 A. Boycotts and related tactics have become a tool of economic warfare
16 that threaten the sovereignty and security of key allies and trade partners
17 of the United States.

18 B. The state of Israel is the most prominent target of such boycott
19 activity, beginning with the Arab League Boycott adopted in 1945, even before
20 Israel's declaration of independence as the reestablished national state of
21 the Jewish people.

22 C. Companies that refuse to deal with United States trade partners
23 such as Israel, or entities that do business with or in such countries, make
24 discriminatory decisions on the basis of national origin that impair those
25 companies' commercial soundness.

26 D. It is the public policy of the United States, as enshrined in
27 several federal acts, including 50 United States Code section 4607, to oppose
28 such boycotts, and Congress has concluded as a matter of national trade
29 policy that cooperation with Israel materially benefits United States
30 companies and improves American competitiveness.

31 E. Israel in particular is known for its dynamic and innovative
32 approach in many business sectors, and a company's decision to discriminate
33 against Israel, Israeli entities or entities that do business with Israel or
34 in Israel is an unsound business practice making the company an unduly risky
35 contracting partner or vehicle for investment.

36 F. This state seeks to implement Congress's announced policy of
37 "examining a company's promotion or compliance with unsanctioned boycotts,
38 divestment from, or sanctions against Israel as part of its consideration in
39 awarding grants and contracts and supports the divestment of State assets
40 from companies that support or promote actions to boycott, divest from, or
41 sanction Israel."

APPROVED BY THE GOVERNOR MARCH 17, 2016.

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FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2016.

EXHIBIT B
SITE MAP

