

1 **EXHIBIT 1**

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4 **ABBREVIATIONS AND DEFINED TERMS**

5 Unless otherwise specified, wherever the abbreviations or defined terms included in this Exhibit 1
6 are used in the Agreement, the Instructions to Proposers or the Technical Provisions, they shall have
7 the meanings set forth below.

AAA	American Arbitration Association
AASHTO	American Association of State Highway and Transportation Officials
AC	Asphaltic Concrete
ACFC	Asphaltic Concrete Friction Course
ADA	Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
ADEQ	Arizona Department of Environmental Quality
ADOT	Arizona Department of Transportation
ADWR	Arizona Department of Water Resources
AGFD	Arizona Game and Fish Department
AMBER	America’s Missing: Broadcast Emergency Response
APS	Arizona Public Service Electric
A.R.S.	Arizona Revised Statutes
AR-ACFC	Asphaltic Rubber – Asphaltic Concrete Friction Course
ASCE	American Society of Civil Engineers
ASLD	Arizona State Land Department
ASM	Arizona State Museum
ATC	Alternative Technical Concept
AWG	American Wire Gauge
AWS	American Welding Society
AZPDES	Arizona Pollutant Discharge Elimination System
AZ UTRACS	Arizona’s Unified Transportation Registration and Certification System
BLM	Bureau of Land Management
BMP	Best Management Practices
CAD	Computer Aided Design
CADD	Computer Aided Drafting and Design
CCI	ENR Construction Cost Index
CCTV	Closed Circuit Television
CDC	U.S. Center for Disease Control
CE	Categorical Exclusion

C.F.R.	Code of Federal Regulations
CGP	Construction General Permit
CIP	Cast-in-Place
CQM	Construction Quality Manager
CQMP	Construction Quality Management Plan
CPI	Consumer Price Index
CPM	Critical Path Method
CR	Construction Requirements
CRM	Comment Resolution Meeting
D&C	Design and Construction
DBE	Disadvantaged Business Enterprise
DMS	Dynamic Message Signs
DOORS	ADOT's web-based DBE and OJT Online Reporting System (available at https://adotdoors.dbesystem.com)
DPDs	Detailed Pricing Documents
DPS	Arizona Department of Public Safety
DR	Design Requirements
DTM	Digital Terrain Model
ECC	Erosion Control Coordinator
ECM	Environmental Compliance Manager
ECP	Environment Communications Protocol
EDMS	Electronic Document Management System
EEO	Equal Employment Opportunity
EMP	Environmental Management Plan
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FHWA	U.S. Department of Transportation, Federal Highway Administration
FIS	Flood Insurance Study
FMS	Freeway Management Systems
GP	General Provisions
GPDM	Geotechnical Project Development Manual (2021)
GPS	Global Positioning System
HDPE	High Density Poly Ethylene
HEC	Hydraulic Engineering Circular
HEC-RAS	Hydrologic Engineering Center River Analysis System
HED	Highway Easement Deed

HPT	ADOT's Historic Property Team
HPTP	Historic Property Treatment Plan
HVAC	Heating, Ventilation, and Air Conditioning
IA	Independent Assurance
ID	Identification
IRI	International Roughness Index
ISO	International Standards Organization or International Organization for Standardization
IT	Information Technology
ITP	Instructions to Proposers
ITS	Intelligent Transportation System
LED	Light-Emitting Diode
LiDAR	Light Detection and Ranging
LRFD	Load and Resistance Factor Design
MASH	Manual for Assessing Safety Hardware
Mbps	Megabits per Second
MDR	Materials Design Report
MIS	Maintenance Information System
MOT	Maintenance of Traffic
mph	Miles per Hour
MSE	Mechanically Stabilized Earth
MSHA	U.S. Mine Safety and Health Administration
MUTCD	Manual for Uniform Traffic Control Devices
NAD	North American Datum
NAVD	North American Vertical Datum
NB	Northbound
NBI	National Bridge Inventory
NCHRP	National Cooperative Highway Research Program
NEMA	National Electrical Manufacturers Association
NEPA	National Environmental Policy Act
NOI	Notice of Intent
NOT	Notice of Termination
NTP	Notice to Proceed
O&M	Operations and Maintenance
OEM	Original Equipment Manufacturers
OHWM	Ordinary High Water Mark

OJT	On-the-Job Training
OMMP	Operations and Maintenance Management Plan
OMQMP	Operations and Maintenance Quality Management Plan
OMSMP	Operations and Maintenance Safety Management Plan
OSHA	Occupational Safety & Health Administration
P3	Public-Private Partnership
PCMS	Portable Changeable Message Signs
PDF	Portable Document Format
PDS	Pavement Design Summary
PI	Public Involvement
PIP	Public Involvement Plan
PJD	Preliminary Jurisdictional Delineation
PMP	Project Management Plan
PPE	Personal Protective Equipment
PSQM	Professional Services Quality Manager
PSQMP	Professional Services Quality Management Plan
PVC	Polyvinyl Chloride
QA	Quality Assurance
QC	Quality Control
QMP	Quality Management Plan
RFC	Release for Construction
RFI	Request for Information
RFP	Request for Proposals
RFQ	Request for Qualifications
RIDs	Reference Information Documents
ROW	Right-of-Way
SAT	System Acceptance Testing
SB	Southbound
SBC	Small Business Concerns
SDPP	Sewage Discharge Prevention Plan
SHPO	State Historic Preservation Office
SPT	Standard Penetration Test
SR	State Route
SRP	Salt River Project
SSID	Service Set Identification
SWPPP	Stormwater Pollution Prevention Plan

TCE	Temporary Construction Easement
TCP	Traffic Control Plan
TI	Traffic Interchange
TMP	Transportation Management Plan
TOC	Traffic Operations Center
TPs	Technical Provisions
TRB	Transportation Research Board
TRACS	Transportation Accounting System
TSMO	Traffic System Management and Operations
TWG	Technical Work Group
UPRR	Union Pacific Railroad
UPS	Uninterruptable Power Supply
U.S.	United States
U.S.C.	United States Code
USACE	United States Army Corps of Engineers
USDOT	United States Department of Transportation
UTP	Unshielded Twisted Pair
VAB	Vehicle Arresting Barrier
VAC	Volts Alternative Current
VLAN	Virtual Local Area Network
VoIP	Voice Over Internet Protocol
VPN	Virtual Private Network
WAN	Wide Area Network
WBS	Work Breakdown Structure
WHO	World Health Organization
WLAN	Wireless Local Area Networks

- 1 **3D Models** means the models described in Section GP 110.10.2.4.3 of the Technical Provisions.
- 2 **Action Report** means the report described in Section GP 110.05.4.1 of the Technical Provisions.
- 3 **Additional TCE Property** has the meaning set forth in Section 7.2.1(a) of the Agreement.
- 4 **Adjacent Work** means any project, work, improvement or development to be planned, designed
5 or constructed that could or does affect the Project or that is located on the Site or property
6 contiguous with the Project. Examples of Adjacent Work include the ADOT Broadband Initiative
7 for I-17, proposed subdivisions, other roads constructed by Governmental Entities, site grading
8 and drainage, and other development improvement plans and Utility projects.

1 **Adjustment Standards** means the standard design and construction methods that a Utility
2 Company applies to facilities (comparable to facilities subject to Utility Adjustments on account
3 of the Project) constructed by the Utility Company (or for the Utility Company by its contractors),
4 at its own expense. Unless the context or applicable Utility Agreement requires otherwise,
5 references in the Contract Documents to a Utility Company’s “applicable Adjustment Standards”
6 refer to those that are in effect as of the Setting Date.

7 **Adjustments** means Utility Adjustments.

8 **ADOT** means the Arizona Department of Transportation, a public agency constituted under the
9 laws of the State.

10 **ADOT Broadband Initiative for I-17** has the meaning set forth in Section DR 466.3.3.1 of the
11 Technical Provisions.

12 **ADOT-Caused Delay** means any of the following events, to the extent they result in a delay or
13 interruption in the performance of any material Developer obligation under the Agreement:

14 (a) Failure of ADOT to issue NTP 1 by the date that is 100 Days after the Proposal Due
15 Date plus the number of days of any delay in such issuance attributable in whole or in part to a
16 Developer Act;

17 (b) Failure of ADOT to issue NTP 2 by the date that is ten Business Days after the
18 anticipated issuance date set forth in Section 9.4.1 of the Agreement plus the number of days of
19 any delay in such issuance attributable in whole or in part to a Developer Act;

20 (c) ADOT-Directed Change;

21 (d) Failure or inability of ADOT to make available to Developer any Project ROW parcel
22 listed in TP Attachment 470-1 of the Technical Provisions by the later of the date provided in the
23 Project Schedule or the date provided in TP Attachment 470-1 of the Technical Provisions;

24 (e) Failure or inability of ADOT to make available to Developer any parcel:

25 (i) respecting Developer-Designated ROW or Additional TCE Property to be
26 acquired from the U.S. Bureau of Land Management, 180 days after ADOT has notified Developer
27 in writing that all Environmental Approvals have been obtained and ADOT will acquire the parcel;

28 (ii) respecting Developer-Designated ROW or Additional TCE Property to be
29 acquired from the Arizona State Land Department, 180 days after ADOT has notified Developer
30 in writing that all Environmental Approvals have been obtained and ADOT will acquire the parcel;
31 and

32 (iii) respecting Developer-Designated ROW or Additional TCE Property to be
33 acquired from a private owner, 180 days after ADOT has notified Developer in writing that all
34 Environmental Approvals have been obtained and ADOT will acquire the parcel,

1 provided that “make available” as used in clauses (d) and (e) above means that ADOT has (A)
2 obtained an order for immediate possession, (B) closed the acquisition of the parcel or (C)
3 otherwise obtained permanent right of entry through settlement, negotiation, the condemnation
4 process or otherwise, which in each case may be subject to covenants, conditions, restrictions
5 and limitations the compliance with which by Developer will not adversely interfere with the
6 Project Schedule or planned construction means and methods. With respect to clause (d) above,
7 “make available” requires relocation of occupants and commencement or completion of
8 demolition or clearance, including data recovery for cultural resources, so as not to interfere
9 unreasonably with Developer’s performance of the Work with respect to the parcel. With respect
10 to clause (e) above, “make available” does not require commencement or completion of
11 relocation, demolition or clearance (such as, but not limited to, data recovery for cultural
12 resources);

13 (f) Following delivery of written notice from Developer requesting such action in
14 accordance with the terms and requirements of the Contract Documents, the failure of ADOT to
15 provide responses to proposed schedules, plans, Design Documents and other Submittals and
16 matters submitted to ADOT after the Effective Date for which response is required under the
17 Contract Documents as an express prerequisite to Developer’s right to proceed or act, within the
18 time periods (if any) indicated in the Contract Documents, or if no time period is indicated, within
19 a reasonable time, taking into consideration (i) the nature, importance and complexity of the
20 Submittal or matter, (ii) the number of Submittals or such other items which are then pending
21 for ADOT’s response, (iii) the completeness and accuracy of the Submittal or such other item, and
22 (iv) Developer’s performance and history of Nonconforming Work under the Contract
23 Documents;

24 (g) Suspensions of the Work that ADOT orders under Section 20.1 of the Agreement,
25 subject to the following:

26 (i) Any suspension of Work lasting up to 45 days arising from a Relief Event
27 under clause (e), (h), (i), (j), (l), (n) or (o), respectively, of the definition of “Relief Event” (Force
28 Majeure Events, presence or Release of Hazardous Materials, ADOT’s performance of data
29 recovery respecting archeological, paleontological, historical or cultural resources, ADOT’s
30 actions related to endangered or threatened species, litigation, or security threat, rule, order or
31 directive) shall not be considered an ADOT-Caused Delay, despite the fact that ADOT may
32 specifically direct Developer to suspend the Work; but

33 (ii) If any such suspension extends beyond 45 days, then suspension
34 thereafter shall be a separate and independent ADOT-Caused Delay and Relief Event;

35 (h) Failure of ADOT to complete data recovery and consultations pursuant to the
36 Historic Property Treatment Plan by April 30, 2022; and

37 (i) Any other event that the Contract Documents expressly state is an “ADOT-Caused
38 Delay”.

1 Any proper suspension of Work pursuant to Section 20.2 of the Agreement is not an ADOT-
2 Caused Delay.

3 **ADOT Consultant** means any firm or person under contract with ADOT to perform services for or
4 on behalf of ADOT, whether or not the identity or status of such firm or person is known to
5 Developer.

6 **ADOT Design Exception and Design Variance Process Guide** means the Design Exception and
7 Design Process Guide, updated by the ADOT Roadway Engineering Group dated December 14,
8 2009, including all revisions thereto applicable on the Setting Date.

9 **ADOT-Directed Change** means changes in the scope of the Work or terms and conditions of the
10 Contract Documents (including changes in the Applicable Standards and the Technical Provisions,
11 subject to Section 1.4.2), which ADOT has directed Developer to perform.

12 **ADOT Pavement Design Manual** means the Pavement Design Manual, Roadway Engineering
13 Group, Pavement Design Section, Phoenix, Arizona, September 2017, as it may be revised as of
14 the Setting Date.

15 **ADOT PIP** means the ADOT public involvement plan dated February 2017 set forth in the
16 Reference Information Documents in the file entitled "I-17 Anthem to SR69 - ADOT Public
17 Involvement Plan - 201702".

18 **ADOT's Recoverable Costs** means:

19 (a) The costs of any assistance, action, activity or Work undertaken by ADOT and for
20 which Developer is liable, or is to reimburse ADOT, under the terms of the Contract Documents,
21 including the charges of third party contractors, and reasonably allocated wages, salaries,
22 compensation and overhead of ADOT staff and employees performing such action, activity or
23 Work; plus

24 (b) Third-party costs ADOT incurs to procure any such third party contractors; plus

25 (c) Reasonable fees and costs of attorneys (including the reasonably allocable fees
26 and costs of the Arizona Attorney General's Office), financial advisors, engineers, architects,
27 insurance brokers and advisors, investigators, traffic and revenue consultants, risk management
28 consultants, other consultants, and expert witnesses, as well as court costs and other litigation
29 costs, in connection with any such assistance, action, activity or Work, including in connection
30 with defending claims by and resolving disputes with third party contractors; plus

31 (d) Interest on all the foregoing sums at the applicable floating rate set forth in
32 Section 27.14.3 of the Agreement, commencing on the date due under the applicable terms of
33 the Contract Documents and continuing until paid.

1 **ADOT Release(s) of Hazardous Material** means a Release of Hazardous Material directly by ADOT
2 or by its contractors, subcontractors, agents or employees acting in such capacity (other than any
3 Developer-Related Entity), excluding, however, any Known or Suspected Hazardous Material.

4 **ADOT Standard Specifications** means the 2021 Arizona Department of Transportation Standard
5 Specifications for Road and Bridge Construction and associated Stored Specifications, adopted by
6 the Arizona State Transportation Board, including all revisions thereto applicable on the Setting
7 Date.

8 **ADOT Systems Engineering Checklist** means the checklist provided in the Reference Information
9 Documents in the file entitled “ADOT Systems Engineering Checklist.PDF”.

10 **Aesthetic Theme** has the meaning set forth in Section DR 450.3.1 of the Technical Provisions.

11 **Affiliate** means:

12 (a) Any shareholder, member, partner or joint venture member of Developer;

13 (b) Any Person that directly or indirectly through one or more intermediaries controls,
14 or is controlled by, or is under common control with, Developer or any of its shareholders,
15 members, partners or joint venture members; and

16 (c) Any Person for which 20 percent or more of the equity interest in such Person is
17 held directly or indirectly, beneficially or of record by (i) Developer, (ii) any of the shareholders,
18 members, partners or joint venture members of Developer, or (iii) any Affiliate of Developer
19 under clause (b) of this definition.

20 For purposes of this definition the term “control” means the possession, directly or indirectly, of
21 the power to cause the direction of the management of a Person, whether through voting
22 securities, by contract, family relationship or otherwise.

23 **Affiliated** means having the status of an Affiliate.

24 **Agreement** means this Design-Build-Operate-Maintain Agreement, including all exhibits
25 attached hereto, as such Agreement or any such exhibits may be amended, supplemented,
26 restated or otherwise modified, from time to time, in accordance with the terms hereof, and the
27 executed originals of exhibits that are contracts.

28 **Alternative Technical Concept** means an ADOT-approved technical solution or approach that
29 differs from the requirements in the Contract Documents and is included in Exhibit 2-1
30 (Developer’s Schematic Design Including Alternative Technical Concepts).

31 **Amended Application for ROW Supporting Documents** means the application described in
32 Section DR 470.2.4 of the Technical Provisions.

- 1 **Annual O&M Payment** means the annual payments to Developer for performance of the O&M
2 Work set forth in Exhibit 2-4.2 (O&M Price Breakdown) to the Agreement, as adjusted pursuant
3 to Section 15.6.2 of the Agreement.
- 4 **Annual O&M Work Report** means the report described in Section OMR 400.3.3B of the Technical
5 Provisions.
- 6 **Applicable Standards** means all applicable codes, standards, manuals, guidelines, publications,
7 advisory circulars and references listed or referenced within the Agreement or the Technical
8 Provisions, including those described or listed in Sections GP 110.01.1.1, DR 400 and CR 400 of
9 the Technical Provisions.
- 10 **Applications for Deviations** means the application described in Section 8.2.5 of the Agreement
- 11 **Application for Final D&C Payment** has the meaning set forth in Section 15.3 of the Agreement.
- 12 **Application for Government Approvals** means any application for a Governmental Approval.
- 13 **APS Allowance** has the meaning set forth in Section 15.5.5 of the Agreement.
- 14 **APS Facilities** has the meaning set forth in Section 15.5.1 of the Agreement.
- 15 **APS Scope of Work** has the meaning set forth in Section 15.5.1 of the Agreement.
- 16 **Archaeological Documentation and Reporting** means the compilation and synthesis of the
17 background, field and laboratory research that results from the archaeological surveying,
18 whether performed by ADOT, Developer or another party, of parcels on which Developer shall
19 perform any Work.
- 20 **Arizona 811** means the field locator that performs all requirements as specified in A.R.S. §§ 40-
21 360.21 through 40-360.29 for all underground facilities.
- 22 **As-Built Drainage Report** means the report described in Section DR 445.3.3 of the Technical
23 Provisions.
- 24 **As-Built Geotechnical Engineering Report** means the report described in Section DR 416.3.2 of
25 the Technical Provisions.
- 26 **As-Built Load Rating Report** means the report described in Section CR 455.3.7 of the Technical
27 Provisions.
- 28 **As-Built Schedule** means a schedule, as more particularly described in, and satisfying the
29 requirements of, Section GP 110.06.2.12 of the Technical Provisions.
- 30 **Authorized Representative** has the meaning set forth in Section 27.6.1 of the Agreement.
- 31 **Base CCI** means 12,112.

1 **Base CPI** means 268.551.

2 **Basic Configuration** has the meaning set forth in Section GP 110.01.2.1 of the Technical
3 Provisions.

4 **Basis of Design Report** means a report, as described in, and satisfying the requirements of,
5 Section GP 110.01.1.2 of the Technical Provisions.

6 **Best Management Practices** has the meaning set forth in Storm Water Management for
7 Construction Activities: Developing Pollution Prevention Plans and Best Management Practices
8 (EPA Document 832 R 92-005).

9 **Betterment** has, with respect to a given Utility being Adjusted, the meaning (if any) set forth in
10 the applicable Utility Agreement. When not defined by a Utility Agreement, “Betterment” means
11 any upgrading of a Utility or related facilities in the course of a Utility Adjustment that is not
12 attributable to the construction of the Project, and is made solely for the benefit of and at the
13 election of the Utility Company, including an increase in the capacity, capability, efficiency or
14 function of an Adjusted Utility over that which was provided by the existing Utility; provided,
15 however, that the following are not considered Betterments:

16 (a) Any upgrading which is required for accommodation of the Project;

17 (b) Replacement devices or materials that are of equivalent standard although not
18 identical;

19 (c) Replacement of devices or materials no longer regularly manufactured with an
20 equivalent grade or size;

21 (d) Any upgrading required by applicable Law;

22 (e) Replacement devices or materials that are used for reasons of economy in
23 accordance with the Utility Company’s Adjustment Standards (e.g., non-stocked items may be
24 uneconomical to purchase); or

25 (f) Any upgrading required by the Utility Company’s written Adjustment Standards.

26 **Blast Monitoring Plan** means a plan, as described in, and satisfying the requirements, of Section
27 CR 416.3.4.4 of the Technical Provisions.

28 **Blasters in Charge** means the individuals described in Section GP 110.08.3.9 of the Technical
29 Provisions.

30 **Blasting Information Report** means a report, as described in, and satisfying the requirements of,
31 Section CR 416.3.4.5 of the Technical Provisions.

- 1 **Blasting Plan** means a plan, as described in, and satisfying the requirements of, Section CR
2 416.3.4.7 of the Technical Provisions.
- 3 **Blasting Report** means a report, as described in, and satisfying the requirements of, Section CR
4 416.3.4.7 of the Technical Provisions.
- 5 **Blasting Supervisors** means the individuals described in Section GP 110.08.3.8 of the Technical
6 Provisions.
- 7 **Books and Records** means any and all documents, books, records, papers, or other information
8 relating to the Project, Project ROW, Utility Adjustments or Work, including:
- 9 (a) All design, construction, operation and maintenance documents (including plans,
10 drawings, specifications, submittals, subcontracts, subconsultant agreements, purchase orders,
11 invoices, schedules, meeting minutes, budgets, forecasts, change orders, Utility Adjustment
12 documents and files);
- 13 (b) Income statements, balance sheets, statements of cash flow and changes in
14 financial position, and details regarding expenses and capital expenditures;
- 15 (c) All budgets, certificates, claims, contracts, correspondence, data (including test
16 data), documents, expert analyses, facts, files, information, investigations, materials, notices,
17 plans, projections, proposals, records, reports, requests, samples, schedules, settlements,
18 statements, studies, surveys, tests, test results, traffic information (including volume counts,
19 classification counts, origin and destination data, speed and travel time information and vehicle
20 jurisdiction data) that is analyzed, categorized, characterized, created, collected, generated,
21 maintained, processed, produced, prepared, provided, recorded, stored or used by Developer or
22 any of its Representatives in connection with the Project; and
- 23 (d) With respect to all of the above, any information that is stored electronically or on
24 computer-related media, including in the Electronic Document Management System.
- 25 **Boring and Access Plan** means a plan, as described in, and satisfying the requirements of, Section
26 DR 416.3.1 of the Technical Provisions.
- 27 **Bridge Deck Drainage** means the drainage requirements described in Section DR 457.3.7 of the
28 Technical Provisions.
- 29 **Bridge Hydraulics Report** means the report described in Section DR 457.3.8 of the Technical
30 Provisions.
- 31 **Business Day** means any day except Saturdays, Sundays and the legal holidays as defined in A.R.S.
32 § 1-301.
- 33 **Buy America** means the Buy America requirements set forth in 23 C.F.R. § 635.410.

1 **Categorical Exclusion** means a class of actions that ADOT, in accordance with NEPA policy, has
2 determined do not, individually or cumulatively, have a significant effect on the human or natural
3 environment and for which, therefore, neither an environmental assessment nor an
4 environmental impact statement are normally required.

5 **Certificate of Final Acceptance** means the certificate issued by ADOT confirming that the Project
6 has achieved the conditions for Final Acceptance set forth in Section 8.6.5(a) of the Agreement.

7 **Certificate of Project Substantial Completion** means the written certificate issued by ADOT
8 confirming that the Project has achieved the conditions for Project Substantial Completion set
9 forth in Sections 8.6.1(a) of the Agreement.

10 **Certificate of South Segment Substantial Completion** means the written certificate issued by
11 ADOT confirming that the South Segment has achieved the conditions for South Segment
12 Substantial Completion set forth in Sections 8.6.2(b) of the Agreement.

13 **Change in Adjustment Standards** means any change in Adjustment Standards that directly
14 affects the design or construction of Utility Adjustments and is (a) necessary to conform to
15 applicable Law or Change in Law or (b) adopted by the applicable Utility Company after the
16 Setting Date. A Change in Law that changes, adds to or replaces Adjustment Standards, as well
17 as revisions to the Technical Provisions to conform to such Change in Law, shall be treated as a
18 Change in Adjustment Standards rather than a Change in Law or an ADOT-Directed Change.

19 **Change in Law** means:

20 (a) The adoption of any State or local Law after the Setting Date that materially
21 increases the costs of, or the time required to complete, Developer's performance of its
22 obligations under the Contract Documents; or

23 (b) Any change in State or local Law, or in the interpretation or application thereof by
24 any State or local Governmental Entity, after the Setting Date, in each case that is materially
25 inconsistent with State or local Laws in effect on the Setting Date and that materially increases
26 the costs of, or the time required to complete, Developer's performance of its obligations under
27 the Contract Documents.

28 The term "Change in Law" excludes:

29 (i) Any change in, or new, federal Law;

30 (ii) Any change in, or new, State or local Law that also constitutes or causes a
31 change in, or new, Adjustment Standards;

32 (iii) Any change in, or new, Law passed or adopted but not yet effective as of
33 the Setting Date;

1 (iv) Any change in, or new, State or local Law relating to Developer’s general
2 business operations, including licensing and registration fees, income taxes, gross receipts taxes,
3 property taxes, transaction privilege taxes, sales and use taxes, social security, Medicare,
4 unemployment and other payroll-related taxes, provided that “Change in Law” includes any
5 increase after the Setting Date in the combined rate of State and local transaction privilege taxes
6 on materials incorporated or to be incorporated into the Project during the O&M Period; and

7 (v) Any change in, or new, local health, safety or labor Laws (but without
8 prejudice to provisions of the Agreement concerning change in Pandemic Law).

9 **Change of Control** means any assignment, sale, financing, grant of security interest, transfer of
10 interest or other transaction of any type or description, including by or through voting securities,
11 asset transfer, contract, merger, acquisition, succession, dissolution, liquidation or otherwise,
12 that results, directly or indirectly, in a change in possession of the power to direct or control or
13 cause the direction or control of the management of Developer or a material aspect of its
14 business. A Change of Control of a shareholder, member, partner or joint venture member of
15 Developer may constitute a Change of Control of Developer if such shareholder, member, partner
16 or joint venture member possesses the power to direct or control, or cause the direction or
17 control of, the management of Developer. Notwithstanding the foregoing, the following shall not
18 constitute a Change of Control:

19 (a) A change in possession of the power to direct or control the management of
20 Developer or a material aspect of its business due solely to a bona fide transaction involving
21 beneficial interests in the ultimate parent organization of a shareholder, member, partner or joint
22 venture member of Developer, (but not if the shareholder, member, partner or joint venture
23 member is the ultimate parent organization), unless the transferee in such transaction is at the
24 time of the transaction suspended or debarred or subject to a proceeding to suspend or debar
25 from bidding, proposing or contracting with any federal or State department or agency;

26 (b) An upstream reorganization or transfer of direct or indirect interests in Developer
27 so long as there occurs no change in the entity with ultimate power to direct or control or cause
28 the direction or control of the management of Developer;

29 (c) A transfer of interests between managed funds that are under common
30 ownership or control other than a change in the management or control of a fund that manages
31 or controls Developer;

32 (d) The exercise of minority veto or voting rights (whether provided by Law, by
33 Developer’s organizational documents or by related member or shareholder agreements or
34 similar agreements) over major business decisions of Developer, provided that if such minority
35 veto or voting rights are provided by shareholder or similar agreements, ADOT has received
36 copies of such agreements; or

37 (e) The voluntary resignation of a shareholder, member, partner or joint venture
38 member of Developer during the O&M Period, but only if (i) the resigning shareholder, member,

1 partner or joint venture member has not been in control of the management of Developer at any
2 time prior thereto, (ii) the resignation occurs following expiration of the statutory period of
3 repose under A.R.S. Section 12-552, and (iii) after the resignation the minimum Tangible Net
4 Worth requirements of Section 12.7 of the Agreement will continue to be met.

5 **Change Request** means a written request issued by Developer to ADOT under Section 17.2 of the
6 Agreement, in the form attached as Exhibit 12 (Contract Modification Request Form) to the
7 Agreement, as ADOT may revise it from time to time.

8 **Claim** means:

9 (a) a demand by Developer, which is or potentially could be disputed by ADOT, for:

10 (i) a time extension under the Contract Documents including an extension of
11 the Completion Deadlines;

12 (ii) payment of money or damages from ADOT to Developer including a
13 Compensation Amount; or

14 (iii) any other type of relief from ADOT, whether claimed under the Contract
15 Documents or at Law or in equity; or Law; or

16 (b) a demand by ADOT, which is or potentially could be disputed by Developer, for
17 payment of money or damages from Developer to ADOT.

18 A Claim includes each request by Developer due to a Relief Event, which is subject to the
19 procedures under Section 16 of the Agreement.

20 **Claim Deductible** means the following amounts, as applicable, for each separate occurrence of a
21 Relief Event:

22 (a) the first \$25,000 of Extra Work Costs; and

23 (b) the amount equal to the Delay Costs for the first five days of delay to the Critical
24 Path due to the Relief Event, subject to an aggregate cap of 25 days.

25 **Closure** means that any traffic lane, ramp, cross road, crossover or shoulder is closed or blocked,
26 or that the use thereof is otherwise restricted, for any duration.

27 **Closure Request** means a written request from Developer to ADOT for a Closure.

28 **Collocated Office Layout Plan** means the layout plan for the collocated office that ADOT and
29 Developer are to occupy, as more particularly described in Section GP 110.05.2.6 of the Technical
30 Provisions.

1 **Comment Resolution Form** means the form described in Section GP 110.10.2.5 of the Technical
2 Provisions.

3 **Committed DBE** has the meaning set forth in Section 3.01 of the DBE Special Provisions.

4 **Compensation Amount** means the amount of increase in the Contract Price, if any, owing to
5 Developer under Section 16 of the Agreement on account of the occurrence of a Relief Event
6 which will compensate Developer for amounts due for Extra Work Costs and Delay Costs: (a) to
7 the extent permitted by Law, as a lump sum payment; (b) as progress payments invoiced as Work
8 is completed; or (c) through any combination of the above, as determined by ADOT, in its sole
9 discretion, in accordance with the procedures set forth in Section 16.2 of the Agreement.

10 **Completion Deadline** means either or both of the Project Substantial Completion Deadline and
11 Final Acceptance Deadline, as the context requires.

12 **Compliance Oversight Committee** has the meaning set forth in Section 13.02 of Exhibit 6 (ADOT's
13 DBE Special Provisions) to the Agreement.

14 **Compliance Evaluation Report** means the report referred to in Section CR 420.3.2.2.5.1 of the
15 Technical Provisions.

16 **Computer Disaster Recovery Plan** means the plan described in, and satisfying the requirements
17 of, Section GP 110.05.4.1H of the Technical Provisions.

18 **Concept of Operations Plan** means the plan described in, and satisfying the requirements of,
19 Section DR 466.3.4 of the Technical Provisions.

20 **Construction Coordination Meeting** means the weekly meeting held to discuss construction
21 activities planned for the upcoming week.

22 **Construction Documents** means all Final Design Document Submittals, final Utility Adjustment
23 plans, fabrication plans, material and hardware descriptions and specifications.

24 **Construction Manager** means the individual described in Section GP 110.08.2.2 of the Technical
25 Provisions. The Construction Manager is one of the Key Personnel listed in Exhibit 8-2 (Key
26 Personnel) of the Agreement.

27 **Construction Materials** means all building and construction materials, supplies, fixtures and
28 equipment to be incorporated into or made part of the Project, including any long-lead items
29 ordered for the Project.

30 **Construction Operations Survey** has the meaning set forth in Section CR 425.2.2.11C of the
31 Technical Provisions.

1 **Construction Quality Management Plan** means the plan that establishes quality control and
2 quality acceptance procedures for the Construction Work, as more particularly described in
3 Section GP 110.07.2.1.3 of the Technical Provisions.

4 **Construction Quality Manager** means the individual designated by Developer to be responsible
5 for management of construction Quality Acceptance functions, as more particularly described in
6 Section GP 110.08.3.2 of the Technical Provisions.

7 **Construction Survey Report** means the report described in, and satisfying the requirements of,
8 Section CR 410.3.3 of the Technical Provisions.

9 **Construction Work** means all Work to build or construct, make, form, manufacture, furnish,
10 install, supply, deliver or equip the Project or the Utility Adjustments. Construction Work includes
11 landscaping and landscape establishment.

12 **Consumer Price Index** or **CPI** means the Consumer Price Index for All Urban Consumers (CPI-U),
13 All Items, for the Phoenix-Mesa metropolitan statistical area, as published twice per year by the
14 United States Department of Labor, Bureau of Labor Statistics, for which the base year is 1982-
15 84 = 100, or if such publication ceases to be in existence, a comparable index selected by ADOT
16 and approved by Developer, acting reasonably. If such index is revised so that the base year
17 differs from that set forth above, the CPI shall be converted in accordance with the conversion
18 factor published by the United States Department of Labor, Bureau of Labor Statistics. If the
19 Bureau of Labor Statistics otherwise alters its method of calculating such index, the Parties shall
20 mutually determine appropriate adjustments in the affected index.

21 **Contract Documents** means the documents listed in Section 1.2.1(a) of the Agreement.

22 **Contract Price** means either or both of the D&C Price and the O&M Price, as applicable.

23 **Controlling Work Item** means a work activity in which any delay in its completion will result in a
24 delay to a Completion Deadline.

25 **CPI Adjustment Formula** means for the Annual O&M Payment:

26
$$\text{Adjusted Annual O\&M Payment}_{\text{Year } Y} = \text{Annual O\&M Payment}_{\text{Year } Y} \times \left(\frac{\text{CPI}}{\text{BCPI}} \right)$$

27 Where:

28 $\text{Annual O\&M Payment}_{\text{Year } Y}$ = the applicable year's Annual O&M Payment as
29 listed in Exhibit 2-4.2 (O&M Price Breakdown) to the Agreement;

30 "CPI" = the CPI most recently published prior to the month in which Year "Y"
31 commenced; and

32 BCPI = Base CPI.

1 Increases in the Annual O&M Payment pursuant to Section 16.1.5(b) will be escalated or reduced
2 in the same manner, except that the BCPI shall be the CPI most recently published prior to the
3 date the Parties establish such increase in a Supplemental Agreement.

4 **Crisis Communications Plan** means the plan described in, and satisfying the requirements of,
5 Section CR 425.2.2.4 of the Technical Provisions.

6 **Critical Path** means each critical path on the Project Schedule, which ends on the Project
7 Substantial Completion Deadline or the Final Acceptance Deadline, as applicable (i.e. the term
8 shall apply only following consumption of all available Float in the schedule for Project Substantial
9 Completion or Final Acceptance, as applicable). The lower case term "critical path" means the
10 activities and durations associated with the longest chain(s) of logically connected activities
11 through the Project Schedule with the least amount of positive Float or the greatest amount of
12 negative Float; and, with respect to South Segment Substantial Completion, means such activities
13 and durations through the Project Schedule up to South Segment Substantial Completion.

14 **D&C Draw Request** means a draw request and certificate described in Section 15.2.2 of the
15 Agreement.

16 **D&C Guaranty** has the meaning set forth in Section 12.7.1 of the Agreement.

17 **D&C Payment Bond** means the bond referred to in Section 12.1.2 of the Agreement in the form
18 of Exhibit 9-2 to the ITP.

19 **D&C Performance Bond** means the bond referred to in Section 12.1.1 of the Agreement in the
20 form of Exhibit 9-1 to the ITP.

21 **D&C Period** means the period of the Term from the Effective Date up to the Project Substantial
22 Completion Date.

23 **D&C Period Noncompliance Event Table** means the Noncompliance Event Table, set forth in
24 Exhibit 14-1 (D&C Period Noncompliance Event Table) to the Agreement, that identifies the
25 Noncompliance Events and corresponding cure periods, if any, that apply during the D&C Period.
26 The D&C Period Noncompliance Event Table is subject to change in accordance with Section
27 19.1.2 of the Agreement.

28 **D&C Price** means the lump sum price for D&C Work set forth in Section 15.1.1 of the Agreement,
29 as it may be modified from time to time in accordance with the express provisions of the
30 Agreement.

31 **D&C Work** means all (a) Design Work and Construction Work, including all efforts necessary or
32 appropriate to achieve Final Acceptance, in accordance with the Technical Provisions, and (b)
33 Maintenance During Construction in accordance with the Technical Provisions.

- 1 **Dark Skies** means lights meeting the requirements of the International Dark-Sky Association,
2 meaning they minimize glare while reducing light trespass and sky glow through shielding to
3 minimize the blue light in the nighttime environment.
- 4 **Day** or **day** means calendar day.
- 5 **DBE Certificate of Final Payments, Construction and Professional Services** means the
6 certification in the form of Attachment E to the DBE Special Provisions.
- 7 **DBE Goals** has the meaning set forth in Section 11.2.1 of the Agreement.
- 8 **DBE/OJT Outreach and Compliance Manager** means the individual described in Section GP
9 110.08.2.8 of the Technical Provisions. The DBE/OJT Outreach and Compliance Manager is one
10 of the Key Personnel listed in Exhibit 8-2 (Key Personnel) of the Agreement.
- 11 **DBE Monthly Utilization Progress Report** means the report by that name described in Section
12 18.02.2 of the DBE Special Provisions.
- 13 **DBE Special Provisions** means ADOT's provisions regarding DBE utilization for the Project set
14 forth in Exhibit 6 (ADOT's DBE Special Provisions) to the Agreement.
- 15 **DBE Subcontractor** means any Person included in the DBE Utilization Plan to perform D&C Work.
- 16 **DBE Utilization Plan** means Developer's ADOT-approved plan for meeting the DBE participation
17 goals, described in Section 11.2.5(b) of the Agreement.
- 18 **Defect** means an error, omission, defect or other attribute, whether in design, construction or
19 installation, affecting the condition, use, functionality or operation of any Element of the Project,
20 which causes or has the potential to cause one or more of the following:
- 21 (a) A hazard, nuisance or other risk to public or worker health or safety, including the
22 health and safety of those traveling on the Project;
- 23 (b) A structural deterioration of or other loss of or damage to the affected Element or
24 any other part of the Project;
- 25 (c) Damage to a third party's property or equipment;
- 26 (d) Damage to the environment;
- 27 (e) Failure of the affected Element or any other part of the Project to meet a
28 requirement of the Contract Documents; or
- 29 (f) Failure of an Element to meet the Target for a Measurement Record as set forth
30 in TP Attachment 500-1 of the Technical Provisions.

1 **Delay Costs** means Developer’s additional costs (and profit thereon) attributable to a Relief Event
2 Delay, which costs are limited to those, and are subject to the exclusions, set forth in Section 2
3 of Exhibit 13 to the Agreement.

4 **Design Change** means any adjustment or change to Project design during Construction Work.

5 **Design Documents** means all drawings (including Plans, profiles, cross-sections, notes,
6 elevations, sections, details and diagrams), specifications, reports, studies, calculations,
7 electronic files, records and submittals necessary for, or related to, the design of the Project or
8 the Utility Adjustments in accordance with the Contract Documents, the Governmental
9 Approvals and applicable Law.

10 **Design Exception** has the meaning as defined in the ADOT Design Exception and Design Variance
11 Process Guide.

12 **Design Exception and Design Variance Report** means the report described in Section DR 440.3.2
13 of the Technical Provisions.

14 **Design Manager** means the individual described in Section GP 110.08.2.3 of the Technical
15 Provisions, and identified in Exhibit 8 (Key Subcontractors and Key Personnel) as Key Personnel.

16 **Design Review** means the review process described in Section GP 110.10.2.5 of the Technical
17 Provisions.

18 **Design Submittal Schedule** means the schedule for all design Submittal packages, as more
19 particularly described in Section GP 110.10.2.5.2 of the Technical Provisions.

20 **Design Survey Report** means the report described in, and satisfying the requirements of Section
21 DR 410.3.3 of the Technical Provisions.

22 **Design Variance** has the meaning as defined in the ADOT Design Exception and Design Variance
23 Process Guide.

24 **Design Work** means all Work of design, engineering or architecture for the Project, Project ROW
25 acquisition or Utility Adjustments.

26 **Detailed Pricing Documents** has the meaning set forth in Section 25.1 of the Agreement.

27 **Detour Plans** means the plans described in, and satisfying the requirements of, Section DR
28 462.3.1.4 of the Technical Provisions.

29 **Developer** means Kiewit-Fann Joint Venture, a joint venture formed by and between Kiewit
30 Infrastructure West Co. and Fann Contracting Inc. under the laws of the State of Delaware,
31 together with its permitted successors and assigns.

1 **Developer Act** means any negligence, gross negligence, recklessness, fraud, criminal conduct,
2 illegal activity, intentional misconduct, bad faith, fault, breach of contract, breach of the
3 requirements of the Contract Documents, violation of Law or a Governmental Approval, or other
4 wrongful act or wrongful omission of, or by, any Developer-Related Entity.

5 **Developer Cycle Key Date** means the dates on which ADOT will make payments owing from
6 ADOT to Developer under the Agreement. Such payment dates will occur on the third Wednesday
7 of each month, and cover the monthly period ten Business Days before the previous Developer
8 Cycle Key Date through ten Business Days before the current Developer Cycle Key Date. ADOT
9 publishes Developer Cycle Key Dates annually for the applicable year-long period.

10 **Developer Default** has the meaning set forth in Section 21.1.1 of the Agreement.

11 **Developer-Designated ROW** means any permanent interest in real property (which term is
12 inclusive of all estates and interests in real property), improvements and fixtures outside of the
13 Schematic ROW that Developer requests ADOT to acquire for the Project. The term specifically
14 includes (a) any such interest required for drainage for the Project if not identified in the
15 Schematic ROW; (b) the necessity to condemn an entire parcel even though only a portion of the
16 parcel is required as Developer-Designated ROW; (c) ROW acquired to implement an approved
17 ATC; and (d) any air space, surface rights and subsurface rights within the Developer-Designated
18 ROW. The term specifically excludes (i) Replacement Utility Property Interests; (ii) Developer's
19 Temporary Work Areas; and (iii) Necessary Schematic ROW Changes.

20 **Developer Intellectual Property** means all Intellectual Property developed by Developer or its
21 Affiliates or Subcontractors independently of and not related to its or their obligations to perform
22 under the Contract Documents.

23 **Developer-Related Entity** means:

24 (a) Developer;

25 (b) Developer's shareholders, members, partners or joint venture members;

26 (c) Subcontractors and Suppliers;

27 (d) Any other Persons performing any of the Work directly or indirectly on
28 Developer's behalf or over which Developer directly or indirectly exercises control;

29 (e) Any other Persons for whom Developer may be legally or contractually
30 responsible; and

31 (f) The employees, agents, officers, directors, shareholders, representatives,
32 consultants, successors, assigns and invitees of any of the foregoing.

33 **Developer Release of Hazardous Materials** means:

1 (a) Release(s) of Hazardous Material, or the exacerbation of any such release(s),
2 attributable to the culpable actions, culpable omissions, negligence, intentional misconduct, or
3 breach of applicable Law or contract by any Developer-Related Entity;

4 (b) Release(s) of Hazardous Materials arranged to be brought onto the Site or
5 elsewhere by any Developer-Related Entity, regardless of cause;

6 (c) Release of Hazardous Materials from any vehicle operated by a Developer-Related
7 Entity in the course of performing Work or from such vehicle's cargo, regardless of cause; or

8 (d) Use, containment, storage, management, handling, transport and disposal of any
9 Hazardous Materials by any Developer-Related Entity in violation of the requirements of the
10 Contract Documents or any applicable Law or Governmental Approval.

11 **Developer's Proposal Commitments** means the content of Exhibit 2-3 (Proposal Commitments)
12 to the Agreement.

13 **Developer's Schematic Design** means Developer's conceptual design for the Project set forth in
14 Exhibit 2-1 (Developer's Schematic Design Including Alternative Technical Concepts) to the
15 Agreement.

16 **Developer's Temporary Work Areas** means areas in which Developer carries out, on a temporary
17 basis, Project-specific or Project-related activities in connection with the Work, but not within
18 the Project ROW boundaries identified in the NEPA Approval, such as construction work sites,
19 the collocated office (as described in Section GP 110.05.2 of the Technical Provisions), field office
20 locations (as described in Section GP 110.05.3 of the Technical Provisions), staging areas, storage
21 areas, lay-down areas, stockpiling areas, earth work material borrow sites, equipment parking
22 areas, holding areas, nurseries, and other locations for the convenience of Developer.
23 "Developer's Temporary Work Areas" do not include Temporary Construction Easements.

24 **Deviation** means:

25 (a) Any proposed or actual change, deviation, modification, alteration or exception
26 from the Technical Provisions; or

27 (b) A change in the Work or other requirements of the Contract Documents issued
28 under Section 17.2.9 of the Agreement. Such Deviations include "Design Exceptions" and "Design
29 Variances."

30 **Differing Site Conditions** means:

31 (a) Subsurface or latent conditions encountered within one foot from the actual
32 boring holes identified in the geotechnical reports included in the Reference Information
33 Documents, which differ materially from those conditions indicated in the geotechnical reports
34 for such boring holes; or

1 (b) Subsurface physical conditions of an unusual nature, differing materially from
2 those ordinarily encountered in the area and generally recognized as inherent in the type of work
3 provided for in the Agreement.

4 The term Differing Site Conditions shall specifically exclude:

5 (i) All such subsurface or latent conditions that (A) were known to Developer
6 prior to the Setting Date, or (B) would have become known to Developer by undertaking
7 Reasonable Investigation;

8 (ii) Changes in surface topography;

9 (iii) Variations in subsurface moisture content and variations in the water
10 table;

11 (iv) Utility facilities;

12 (v) Hazardous Materials; and

13 (vi) Any conditions that constitute or are caused by a Force Majeure Event.

14 **Directive Letter** has the meaning set forth in Section 17.3 of the Agreement.

15 **Disadvantaged Business Enterprise** has the meaning set forth in 49 C.F.R. Section 26.5.

16 **Dispute** means any dispute, Claim, disagreement or controversy between ADOT and Developer
17 concerning their respective rights and obligations under the Contract Documents, including
18 concerning any alleged breach or failure to perform and remedies therefor, and that has satisfied
19 all predicate notice and information requirements set forth in the Agreement and that is eligible
20 for resolution using the Dispute Resolution Procedures. “Dispute” includes all disputes that the
21 Agreement expressly designates as Disputes or as eligible for resolution under the Dispute
22 Resolution Procedures without any further prerequisites. The word “dispute” in its lower case
23 spelling shall have its plain language meaning.

24 **Dispute Resolution Procedures** means collectively, the procedures established under Section
25 24.2 of the Agreement.

26 **Document Management Plan** means a plan, as described in, and satisfying the requirements of,
27 Section GP 110.04.2 of the Technical Provisions.

28 **Drainage Master Plan** means a plan, as described in, and satisfying the requirements of, Section
29 DR 445.3.2 of the Technical Provisions.

30 **Drainage Report** means a report described in Section DR 445.3.3 of the Technical Provisions.

1 **Drilled Shaft Installation Plan** means a plan, as described in, and satisfying the requirements of,
2 Section CR 416.3.1.2 of the Technical Provisions.

3 **Drilled Shaft Load Test Program** means a program as described in, and satisfying the
4 requirements of, Section CR 416.3.1.1 of the Technical Provisions.

5 **Drilled Shaft Load Test Report** means a program as described in, and satisfying the requirements
6 of, Section CR 416.3.1.1E of the Technical Provisions.

7 **Drilled Shaft Quality Control Report** means a program as described in, and satisfying the
8 requirements of, Section CR 416.3.1.3 of the Technical Provisions.

9 **Effective Date** means the date of the Agreement, which shall be the last date on which all
10 required signatures for the Agreement are obtained.

11 **Effective FEMA Special Flood Hazard Area** means the area where the National Flood Insurance
12 Program's floodplain management regulations must be enforced and the area where the
13 mandatory purchase of flood insurance applies.

14 **Electronic Document Management System** means the secure data management system
15 provided by Developer containing all of the data Developer is required to submit to ADOT in
16 connection with the Work and compatible with data systems, standards and procedures
17 employed by ADOT, as more particularly described in Section GP 100.04.2 of the Technical
18 Provisions.

19 **Element** means (a) a discrete portion of the Project (e.g., a sign) or (b) a discrete condition to be
20 Inspected and measured as set forth in TP Attachment 500-1 of the Technical Provisions.

21 **Emergency** means any unplanned event or condition originating from within or adjacent to the
22 Project ROW that:

23 (a) presents an immediate or imminent threat to the integrity of any part of the
24 infrastructure of the Project, to the environment, to property adjacent to the Project or to the
25 safety of the public;

26 (b) causes serious injury to persons, or significant damage to property or the
27 environment, within or adjacent to the Project; or

28 (c) the Arizona Department of Public Safety recognizes as an emergency.

29 **Engineer of Record** means the Professional Engineer that signs and seals the RFC Submittal prior
30 to construction of the relevant Project components.

31 **ENR Construction Cost Index** means the 12-month "Construction Cost Index" published by
32 Engineering News-Record, Two Penn Plaza, 9th Floor, New York, NY 10121.

1 **Environmental Analysis** means analysis, as described in, and satisfying the requirements of,
2 **Section CR 417.3.2.1** of the Technical Provisions.

3 **Environmental Approval** means any Governmental Approval arising from or required by any
4 Environmental Law in connection with development of the Project, including;

5 (a) The NEPA Approval;

6 (b) Other approvals and permits required under NEPA; and

7 (c) Any revision, modification, supplement or amendment of the foregoing approvals
8 and permits.

9 **Environmental Compliance Manager** means the individual described in, and satisfying the
10 requirements of, **Section GP 110.08.3.10** of the Technical Provisions.

11 **Environmental Law** means any Law applicable to the Project or the Work regulating or imposing
12 liability or standards of conduct that pertain to the environment, Hazardous Materials,
13 contamination of any type whatsoever, or environmental health and safety matters, and any
14 lawful requirements and standards that pertain to the environment, Hazardous Materials,
15 contamination of any type whatsoever, or environmental health and safety matters, set forth in
16 any permits, licenses, approvals, plans, rules, regulations or ordinances adopted, or other criteria
17 and guidelines promulgated, pursuant to Laws applicable to the Project or the Work, as such have
18 been or are amended, modified, or supplemented from time to time (including any present and
19 future amendments thereto and reauthorizations thereof) including those relating to:

20 (a) The manufacture, processing, use, distribution, existence, treatment, storage,
21 disposal, generation, and transportation of Hazardous Materials;

22 (b) Air, soil, surface and subsurface strata, stream sediments, surface water, and
23 groundwater;

24 (c) Releases of Hazardous Materials;

25 (d) Protection of wildlife, Threatened or Endangered Species, sensitive species,
26 wetlands, water courses and water bodies, historical, archeological, and paleontological
27 resources, and natural resources;

28 (e) The operation and closure of underground storage tanks;

29 (f) Safety of employees and other persons; and

30 (g) Notification, documentation, and record keeping requirements relating to the
31 foregoing.

32 Without limiting the above, the term “Environmental Laws” shall also include the following:

- 1 (i) The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*), as
2 amended;
- 3 (ii) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)
- 4 (iii) Section 4(f) of the U.S. Department of Transportation Act of 1966 (49
5 U.S.C. § 303(c))
- 6 (iv) Uniform Relocation Assistance and Real Property Acquisition Policies Act
7 of 1970 (49 C.F.R. Part 24)
- 8 (v) The Comprehensive Environmental Response, Compensation, and Liability
9 Act (42 U.S.C. §§ 9601 *et seq.*), as amended;
- 10 (vi) The Solid Waste Disposal Act, as amended by the Resource Conservation
11 and Recovery Act (42 U.S.C. §§ 6901 *et seq.*), as amended;
- 12 (vii) The Emergency Planning and Community Right to Know Act of 1986 (42
13 U.S.C. §§ 11001 *et seq.*), as amended;
- 14 (viii) The Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), as amended;
- 15 (ix) The Water Pollution Control Act, as amended by the Clean Water Act (33
16 U.S.C. §§ 1251 *et seq.*), as amended;
- 17 (x) The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901, *et seq.*),
18 as amended;
- 19 (xi) The Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.*), as amended;
- 20 (xii) The Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 *et seq.*), as
21 amended;
- 22 (xiii) The Oil Pollution Act (33 U.S.C. §§ 2701, *et. seq.*), as amended;
- 23 (xiv) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 *et*
24 *seq.*), as amended;
- 25 (xv) The Federal Safe Drinking Water Act (42 U.S.C. §§ 300 *et seq.*), as amended;
- 26 (xvi) The Federal Radon and Indoor Air Quality Research Act (42 U.S.C. §§ 7401
27 *et seq.*), as amended;
- 28 (xvii) The Occupational Safety and Health Act (29 U.S.C. §§ 651 *et seq.*), as
29 amended;
- 30 (xviii) The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*), as amended;

- 1 (xix) The Fish and Wildlife Coordination Act (16 U.S.C. §§ 661 et seq.), as
2 amended;
- 3 (xx) The National Historic Preservation Act (16 U.S.C. §§ 470 et seq.), as
4 amended;
- 5 (xxi) The Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668 et seq.), as
6 amended;
- 7 (xxii) The Migratory Bird Treaty Act (16 U.S.C. §§ 703 et seq.), as amended;
- 8 (xxiii) General (A.R.S. §49- 101 to 191);
- 9 (xxiv) Water Quality Control (A.R.S. §49-201 to 391);
- 10 (xxv) Air Quality (A.R.S. §49-401 to 593);
- 11 (xxvi) Solid Waste Management (A.R.S. §49-701 to 881);
- 12 (xxvii) Hazardous Waste Disposal (A.R.S. §49 -901 to 973);
- 13 (xxviii) Underground Storage Tank Regulation (A.R.S. §49-1001 to 1091.01);
- 14 (xxix) Light Pollution (A.R.S. §49-1101 to 1106);
- 15 (xxx) Water Infrastructure Finance Program (A.R.S. §49-1201 to 1282); and
- 16 (xxxi) Natural Gas Facilities (A.R.S. §49-1303).

17 **Environmental Management Plan** means the Developer’s plan for performing all environmental
18 mitigation measures set forth in the Environmental Approvals, and for complying with all other
19 conditions and requirements of the Environmental Approvals, as more particularly described in
20 Section DR 420.2.3 of the Technical Provisions.

21 **Environmental Management Program** means the program described in Section DR 420.2.2 of
22 the Technical Provisions.

23 **Environmentally Sensitive Avoidance Area** means the area to be fenced off during construction
24 and not accessible for any purpose. The RIDs show this geographic area in folder 13.0 Cultural,
25 to which access is limited to qualified specialists.

26 **Equipment Demobilization Plan** means the plan described in Section GP 110.05.4.1 of the
27 Technical Provisions.

28 **Equity Member** means: (a) each entity with a direct equity interest in Developer (whether as a
29 member, partner, joint venture member or otherwise); and (b) each entity with an indirect
30 interest in Developer through one or more intermediaries. Notwithstanding the foregoing, if

1 Developer is a publicly traded company, shareholders with less than a 10% interest in Developer
2 are not considered Equity Members.

3 **Erosion Control Coordinator** means the individual described in Section GP 110.08.3.15 of the
4 Technical Provisions.

5 **Error** means an error, omission, inconsistency, inaccuracy, deficiency or other defect.

6 **Escalated Benchmark O&M Period Insurance Premiums** has the meaning set forth in Section
7 13.1.14(e)(ii) of the Agreement.

8 **Event of Default** has the meaning set forth in Section 21.1.3 of the Agreement.

9 **Event Reporting System** means ADOT’s web-based central server, which functions as a multi-
10 agency information sharing system for planned Closures, special events, Incidents, and other
11 traffic restriction advisories for the State’s highway network, including key arterials in the
12 Phoenix metropolitan area. Information entered in the Event Reporting System is used to
13 populate the public website (at <http://www.az511.gov/>) and the 511 phone system.

14 **Existing Conditions Site Documentation** means the documentation described in Section GP
15 110.11.1 of the Technical Provisions.

16 **Existing Improvements** means any and all roadway, drainage, structures, traffic improvements
17 and other improvements of any kind in, on or under the Project Right of Way that the Department
18 completed prior to and are in existence as of the Effective Date, excluding Utilities not serving
19 the Project.

20 **Existing Structure Modification Report** means the report described in, and satisfying the
21 requirements of, Section DR 455.3.1 of the Technical Provisions.

22 **Existing Utility Property Interest** means any right, title or interest in real property (e.g., a fee or
23 an easement) claimed by a Utility Company as the source of its right to maintain an existing Utility
24 in such real property, which is compensable in eminent domain.

25 **Extra Work** means any Work in the nature of additional work, altered work or deleted work that
26 is directly attributable to occurrence of a Relief Event and absent the Relief Event would not be
27 required (or deleted) by the Contract Documents. For clarity, the term “Extra Work” includes
28 additional work necessary for Developer to obtain Environmental Approvals, reevaluations,
29 amendments and supplements of the NEPA Approval, and other Governmental Approvals
30 required under Section 6.3 of the Agreement in connection with a Relief Event. The term “Extra
31 Work” does not include Relief Event Delay.

32 **Extra Work Costs** means the incremental increase in Developer’s cost of labor, material,
33 equipment and other direct and indirect costs directly attributable to Extra Work, as calculated
34 in accordance with Section 1 of Exhibit 13 (Compensation Amount Specifications) (Extra Work
35 Costs) to the Agreement.

1 **Falsework Drawings** means the drawings described in Section CR 455.3.3 of the Technical
2 Provisions.

3 **Federal Prevailing Wage Rates** has the meaning set forth in Section 11.10.1 of the Agreement.

4 **Federal Requirements** means the federally mandated provisions for construction contracts
5 funded wholly or in part with federal-aid funding or other federal funds or credit, including the
6 provisions set forth in Exhibit 4 (Federal Requirements) to the Agreement.

7 **Field Office Layout Plan** means the layout plan for the field office that ADOT is to occupy, as more
8 particularly described in Section GP 110.05.3.6 of the Technical Provisions.

9 **Final Acceptance** means the occurrence of all of the events and satisfaction of all of the
10 conditions set forth in Section 8.6.5(a) of the Agreement, as and when confirmed by ADOT's
11 issuance of a Certificate of Final Acceptance.

12 **Final Acceptance Date** means the date on which Final Acceptance for the Project occurs.

13 **Final Acceptance Deadline** means the deadline for Final Acceptance, which shall be not later than
14 100 days after the Project Substantial Completion Date, unless adjusted by Supplemental
15 Agreement pursuant to the Agreement.

16 **Final D&C Payment** means payment by ADOT of the final installment of the D&C Price.

17 **Final DBE Utilization Summary Report** means the summary report prepared in accordance with
18 Section 18.02.4 of Exhibit 6 (ADOT's DBE Special Provisions).

19 **Final Design** means, depending on the context: (a) the RFC Submittals; (b) the design concepts
20 set forth in the RFC Submittals; or (c) the process of development of the RFC Submittals.

21 **Final Design Documents Submittal** means the Design Documents described in, satisfying the
22 requirements of, and prepared in accordance with Section GP 110.10.2.6.7 of the Technical
23 Provisions.

24 **Final Design Submittal** means the applicable design Submittal described in, and satisfying the
25 conditions of, Section GP 110.10.2.6.5 of the Technical Provisions.

26 **Final Technical Noise Analysis and Mitigation Report** means the report described in, and
27 satisfying the requirements of, Section DR 420.3.5 of the Technical Provisions.

28 **Fiscal Year** means the consecutive 12-month period starting on July 1 and ending on June 30.

29 **Flex Lanes** means freeway lanes that connect to main lanes in both directions of travel and have
30 gates at each end that can be opened or closed to allow traffic to operate in either direction, to
31 be designed, constructed, operated and maintained as part of the Project.

- 1 **Flex Lanes Direction Change** means the process for switching the direction of travel within the
2 Flex Lanes from northbound to southbound or southbound to northbound as Developer shall
3 more fully describe in the Operations Manual.
- 4 **Flex Lanes Guide Signs** has the meaning set forth in Section DR 460.3.3.2 of the Technical
5 Provisions
- 6 **Flex Lanes System** means the gates, vehicle arresting barriers, control system, Flex Lanes Guide
7 Signs, DMS, CCTV cameras, ITS and associated control cabinets, equipment and software required
8 for the operation and maintenance of the Flex Lanes.
- 9 **Flex Lanes Transition Plan** means the plan for transitioning operation and maintenance of the
10 Flex Lanes System from Developer to ADOT at the end of the O&M Period, as more particularly
11 described in Section 26.15 of the Agreement.
- 12 **Float** means the amount of time that any given activity or logically connected sequence of
13 activities shown on the Project Schedule may be delayed before it will affect the Project
14 Substantial Completion Deadline or Final Acceptance Deadline, as applicable. Such Float is
15 generally identified as the difference between the early start date and late start date, or early
16 completion date and late completion date, for activities shown on the Project Schedule.
- 17 **Flood Event** means storms and floods for which the Governor of the State has proclaimed a state
18 of emergency, when the damaged work of the Project is located within the territorial limits to
19 which such proclamation is applicable.
- 20 **Force Account Work** means Extra Work Costs determined on a force account basis, in accordance
21 with Section 1.2 of Exhibit 13 (Compensation Amount Specifications) (Force Account) of the
22 Agreement.
- 23 **Force Majeure Event** means the occurrence of any of the following events that actually,
24 demonstrably, materially and adversely affects performance of Developer's obligations (other
25 than payment obligations) in accordance with the terms of the Contract Documents:
- 26 (a) War (including civil war and revolution), invasion, armed conflict, or violent act of
27 foreign enemy, in each case occurring within the State of Arizona;
- 28 (b) Military or armed blockade or takeover of the Project or Site;
- 29 (c) Any act of terrorism, riot, insurrection, civil commotion or sabotage that, in each
30 case, causes direct physical damage to the Project or the Site or directly impacts performance of
31 Work at the Site;
- 32 (d) National strikes not specific to Developer, embargoes not specific to Developer,
33 or disruption of the normal movement of goods and materials by a port or transportation
34 authority that, in each case, directly impacts performance of Work at the Site;

1 (e) Nuclear explosion that causes direct physical damage to the Project or the Site;

2 (f) Chemical, biological (excluding Pandemic) or radioactive contamination of the
3 Project or the Site;

4 (g) Flood Event, fire (including vehicle fire), explosion, gradual inundation caused by
5 natural events, tornado, sinkhole caused by natural events, or Landslide, that, in each case causes
6 direct physical damage to the Project or Site or directly impacts performance of Work at the Site;

7 (h) Any governor-declared Emergency within the limits of the Project ROW, except
8 one consisting of or arising out of traffic accidents;

9 (i) One or more earthquakes of a moment magnitude greater than 5.0 (measured by
10 the United States Geological Survey moment magnitude) with an epicenter within 150 miles of
11 the northernmost or southernmost point of the Project ROW, including all foreshocks and
12 aftershocks, where such earthquakes include ground shaking, liquefaction, settlement or ground
13 movements that directly impact, and cause damage to, temporary or permanent works of the
14 Project; and

15 (j) A vehicle collision or traffic accident involving multiple vehicles with damage to
16 multiple elements on any of the roadways within the Project ROW that (i) occurs during the D&C
17 Period, (ii) causes damage to a bridge structure, noise wall, retaining wall, pavement section or
18 overhead sign structure (including the DMS overhead structure at Sunset Point) of the Project
19 and (iii) requires repair due to the collision. The foregoing does not include: (A) a collision due to
20 a Developer Act or (B) a collision involving a vehicle owned, leased or operated by a Developer-
21 Related Entity when used in furtherance of the Work. For the purposes hereof, a “vehicle” has
22 the meaning set forth in A.R.S. § 28-101, and also means aircraft; and

23 (k) Either (i) a Pandemic other than any strain or variant of COVID-19 that the WHO
24 or CDC designated as an epidemic or pandemic on or prior to the Setting Date, or (ii) any
25 Pandemic Law, that in either case limits or restricts movement of people, goods or materials, or
26 imposes health, safety or workplace requirements, restrictions or limitations, thereby directly
27 impacting the Project or the Work.

28 **Foundation Report** means the report described in, and satisfying the requirements of, Section
29 DR 455.3.1 of the Technical Requirements.

30 **Future Projects List** means the list described in Section GP 110.01.2.2.1 of the Technical
31 Provisions.

32 **Gates** means the mechanical barriers at each end of the Flex Lanes that can be opened remotely
33 to allow movement of traffic in a specific direction and closed to allow traffic to move in the
34 opposite direction.

- 1 **General Engineering Consultant** means the entity, as well as its personnel, designated in writing
2 by ADOT as its program manager for the Project, and which shall have all duties, responsibilities
3 and rights granted by ADOT.
- 4 **Generally Accepted Accounting Principles** means such accepted accounting practice as, in the
5 opinion of the accountant, conforms at the time to a body of generally accepted accounting
6 principles in the United States.
- 7 **Geometric Drawing** means the drawing described in Section GP 110.10.2.6.3 of the Technical
8 Provisions.
- 9 **Geotechnical Engineering Report** means a report, as described in, and satisfying the
10 requirements of, Section DR 416.3.2 of the Technical Provisions.
- 11 **Geotechnical Manager** means the individual described in Section GP 110.08.3.6 of the Technical
12 Provisions.
- 13 **Geotechnical Software** means the software described in Section DR 416.2.3 of the Technical
14 Provisions.
- 15 **Geotechnical Supplements** means a supplement to the applicable Geotechnical Engineering
16 Report, as more particularly described in Section DR 416.3.2 of the Technical Provisions.
- 17 **Good Faith Efforts** means (a) with respect to DBE, the efforts to meet the DBE Goals required
18 under 49 C.F.R. Part 26, Appendix A, and (b) with respect to OJT, the effort to meet the OJT Goals
19 required under 23 C.F.R. § 230.409(g)(4).
- 20 **Good Industry Practice** means the exercise of the degree of skill, diligence, prudence and
21 foresight which would reasonably and ordinarily be expected from a skilled and experienced
22 designer, engineer, construction contractor or operations or maintenance contractor seeking in
23 good faith to comply with its contractual obligations, complying with all applicable Laws and
24 engaged in the same type of undertaking under circumstances and conditions similar to those
25 within the same geographic area as the Project.
- 26 **Governmental Approval** means any permit, license, consent, concession, grant, franchise,
27 authorization, waiver, certification, exemption, filing, lease, registration or ruling, variance or
28 other approval, guidance, protocol, agreement, mitigation agreement, or memoranda of
29 agreement/understanding, and any amendment or modification of any of them, required by or
30 with, or provided by, Governmental Entities, including State, local, or federal regulatory agencies,
31 agents, or employees, which authorize or pertain to the Work or the Project, but excluding any
32 such approvals given by or required from any Governmental Entity in its capacity as a Utility
33 Company. The term “Governmental Approvals” include Environmental Approvals.
- 34 **Governmental Approval Package** means the package of documentation that a Governmental
35 Entity requires to be submitted to it in order to determine whether to issue a Governmental
36 Approval (or any proposed reevaluation, amendment, supplement, modification, renewal,

1 extension or waiver of a Governmental Approval or provision thereof) or the terms and
2 conditions thereof. Such documentation includes a complete application and may also include
3 environmental studies, analyses, calculations, Design Documents, Plans, surveys, narratives, data
4 and other documentation.

5 **Governmental Entity** means any federal, state, local or foreign government (including the Local
6 Jurisdictions) and any political subdivision or any governmental, quasi-governmental, judicial,
7 public or statutory instrumentality, administrative agency, authority, body or entity.
8 “Governmental Entity” includes ADOT when acting in the capacity of issuing an Environmental
9 Approval, but not otherwise.

10 **Guaranteed Obligations** has the meaning set forth in the Guaranty.

11 **Guarantor** means each of the entities that provides a Guaranty in the applicable form of **Exhibit**
12 **10-1** (Form of D&C Guaranty) or **Exhibit 10-2** (Form of O&M Guaranty) of the Agreement.

13 **Guaranty** means each guaranty executed by a Guarantor guaranteeing the obligations of
14 Developer under the Contract Documents.

15 **Guidelines** has the meaning set forth in **Recital A** of the Agreement.

16 **Hazardous Materials** means any element, chemical, compound, material or substance, whether
17 solid, liquid or gaseous, which at any time is defined, listed, classified or otherwise regulated in
18 any way under any Environmental Laws, or any other such substances or conditions (including
19 mold and other mycotoxins or fungi) which may create any unsafe or hazardous condition or
20 pose any threat to human health and safety. The term “Hazardous Materials” includes the
21 following:

22 (a) Hazardous wastes, hazardous material, hazardous substances, hazardous
23 constituents, and toxic substances or related materials, whether solid, liquid, or gas, including
24 substances defined as or included in the definition of “hazardous substance”, “hazardous waste”,
25 “hazardous material”, “extremely hazardous waste”, “acutely hazardous waste”, “radioactive
26 waste”, “radioactive materials”, “bio-hazardous waste”, “pollutant”, “toxic pollutant”,
27 “contaminant”, “restricted hazardous waste”, “infectious waste”, “toxic substance”, “toxic
28 waste”, “toxic material”, or any other term or expression intended to define, list or classify
29 substances by reason of properties harmful to health, safety or the indoor or outdoor
30 environment (including harmful properties such as ignitability, corrosivity, reactivity,
31 carcinogenicity, toxicity, reproductive toxicity, “TCLP” toxicity” or “EP toxicity” or words of similar
32 import under any applicable Environmental Laws);

33 (b) Any petroleum, including crude oil and any fraction thereof, and including any
34 refined petroleum product or any additive thereto or fraction thereof or other petroleum derived
35 substance; and any waste oil or waste petroleum byproduct or fraction thereof or additive
36 thereto;

- 1 (c) Any drilling fluids, produced waters and other wastes associated with the
2 exploration, development or production of crude oil, natural gas or geothermal resources;
- 3 (d) Any flammable substances or explosives;
- 4 (e) Any radioactive materials;
- 5 (f) Any asbestos or asbestos-containing materials;
- 6 (g) Any lead and lead-based paint;
- 7 (h) Any radon or radon gas;
- 8 (i) Any methane gas or similar gaseous materials;
- 9 (j) Any urea formaldehyde foam insulation;
- 10 (k) Electrical equipment which contains any oil or dielectric fluid containing regulated
11 levels of polychlorinated biphenyls;
- 12 (l) Pesticides;
- 13 (m) Any other chemical, material or substance, exposure to which is prohibited,
14 limited or regulated by any Governmental Entity or which may or could pose a hazard to the
15 health and safety of the owners, operators, users or any Persons in the vicinity of the Project or
16 to the indoor or outdoor environment; and
- 17 (n) Soil, or surface water or ground water, contaminated with Hazardous Materials as
18 defined above.

19 **Hazardous Materials Management** means procedures, practices and activities to address and
20 comply with Environmental Laws and Environmental Approvals with respect to Hazardous
21 Materials encountered, impacted, caused by or occurring in connection with the Work, as well
22 as investigation and remediation of such Hazardous Materials. Hazardous Materials
23 Management may include handling, sampling, stock-piling, containment, storage, backfilling in
24 place, asphalt batching, recycling, treatment, clean-up, remediation, removal, transportation or
25 off-site disposal of Hazardous Materials, whichever is the most cost-effective approach
26 authorized under applicable Law.

27 **Hazardous Materials Manager** means the individual described in Section GP 110.08.3.12 of the
28 Technical Provisions.

29 **Hazardous Materials Management Plan** means the plan prepared by Developer for the safe
30 handling, storage, treatment or disposal of Hazardous Materials both within and outside the
31 Project ROW.

1 **Historic Property Treatment Plan** means a document that describes a plan, developed and
2 agreed upon through consultation with involved agencies, Native American Tribes, and other
3 interested parties, that describes how adverse effects from an undertaking on historic properties
4 will be mitigated (per 36 CFR 800.6), where historic property is defined as any prehistoric or
5 historic district, site, building, structure, or object included in, or eligible for inclusion in, the
6 National Register of Historic Places maintained by the Secretary of the Interior (per 36 CFR
7 800.16(l)(1)).

8 **Hydraulics and Hydrology Engineer** means the individual described in Section GP 110.08.3.16 of
9 the Technical Provisions.

10 **Inaccurate Utility Information** means, with respect to any Utility Adjustment of a Utility that lies
11 underground within the boundary lines of the Project ROW, that one or more of the following
12 circumstances applies:

13 (a) The Utility Information incorrectly indicates that the subject Utility does not exist
14 within the boundary lines of the Project ROW;

15 (b) The horizontal centerline of the actual location of the subject Utility lies more than
16 ten horizontal feet from the horizontal centerline as shown in the Utility Information;

17 (c) The Utility Information incorrectly indicates that the subject Utility is abandoned
18 (i.e., nonexistent except for its presence in the records, or existent but no longer active for any
19 type of Utility use); or

20 (d) The Utility Information fails to indicate that the Utility Company holds or is
21 assumed to hold Prior Rights Documentation with respect to the subject Utility.

22 If any discrepancy exists between the information provided by one component of the Utility
23 Information and that provided by any other component of the Utility Information, only the more
24 recent information shall be relevant for purposes of this definition.

25 **Incident** means a localized disruption to the free flow of traffic to the users of the Project, or a
26 localized disruption to the safety of users of the Project.

27 **Indemnified Parties** means ADOT, the State, the Arizona State Transportation Board and the
28 General Engineering Consultant, and for each of the foregoing, its successors, assigns,
29 officeholders, officers, directors, agents, representatives, consultants and employees.

30 **Initial Design Submittal** means the applicable design Submittal described in, and satisfying the
31 conditions of, Section GP 110.10.2.6.4 of the Technical Provisions.

32 **Insolvency Event** means, in respect of any Person:

33 (a) any involuntary case is commenced seeking, at any time during the case,
34 liquidation, company reorganization, restructuring, controlled management, suspension of

1 payments, scheme of arrangement, appointment of provisional liquidator, custodian, receiver or
2 administrative receiver, notification, resolution, or petition for winding up, writ of attachment,
3 execution or similar process, or similar proceeding, under any applicable Law, in any jurisdiction,
4 including bankruptcy or insolvency Law and such case has not been dismissed or stayed within
5 60 days;

6 (b) any voluntary case is commenced seeking, at any time during the case, liquidation,
7 company reorganization, restructuring, controlled management, suspension of payments,
8 scheme of arrangement, appointment of provisional liquidator, custodian, receiver or
9 administrative receiver, notification, resolution, or petition for winding up, writ of attachment,
10 execution or similar process, or similar proceeding, under any applicable Law, in any jurisdiction,
11 including bankruptcy or insolvency Law;

12 (c) in any voluntary or involuntary case described in clauses (a) and (b) above, the
13 Agreement or any other Contract Document is rejected, including rejection pursuant to 11 U.S.C.
14 § 365 or any successor statute; or

15 (d) any inability on the part of that Person to pay its debts as they fall due.

16 **Inspect** shall mean to perform an Inspection. When used in its lower case spelling, the term
17 “inspect” shall have its plain language meanings.

18 **Inspection** means a detailed inspection by Developer of a specific Element carried out by duly
19 qualified personnel. When used in its lower case spelling, the term “inspection” shall have its
20 plain language meaning.

21 **Instructions to Proposers** means the Instructions to Proposers issued by ADOT on December 3,
22 2020 as part of the RFP with respect to the Project, including all exhibits, forms and attachments
23 thereto and any subsequent addenda.

24 **Instrumentation Data** means the data from the monitoring of instrumentation of all geotechnical
25 Work that requires monitoring, as described in Section CR 416.3.6 of the Technical Provisions.

26 **Instrumentation Plan** means the plan described in, and satisfying the requirements of, Section
27 DR 416.3.3.5 of the Technical Provisions.

28 **Instrumentation Report** means the report described in, and satisfying the requirements of,
29 Section CR 416.3.6 of the Technical Provisions.

30 **Insurance Advisor** means a qualified and reputable insurance broker or independent, unaffiliated
31 advisor not involved in the Project, experienced in insurance brokerage and underwriting
32 practices for major bridge, highway or other relevant transportation facility projects.

33 **Insurance Policies** means all of the insurance policies Developer and its Subcontractors are
34 required to carry in connection with the Project pursuant to Exhibit 11 (Insurance Coverage
35 Requirements) to the Agreement.

1 **Insurance Review Report** has the meaning set forth in Section 13.1.14(b) of the Agreement.

2 **Intellectual Property** means all current and future legal or equitable rights and interests in know-
3 how, patents (including applications), copyrights (including moral rights), trademarks (registered
4 and unregistered), service marks, trade secrets, designs (registered and unregistered), utility
5 models, circuit layouts, plant varieties, business and domain names, inventions, solutions
6 embodied in technology, and other intellectual activity, and applications of or for any of the
7 foregoing, subsisting in or relating to the Project, Project design data or Project traffic data.
8 Intellectual Property includes traffic management algorithms, and software used in connection
9 with the Project (including software used for management of traffic on the Project), and software
10 source code. Intellectual Property is distinguished from physical embodiments and other
11 documentation that disclose Intellectual Property.

12 **Intelligent Transportation System** means the system to monitor traffic flow, detect traffic and
13 traffic operational conditions and communicate relevant traffic information to users of the
14 Project as more particularly described in Section CR 466 of the Technical Provisions.

15 **Interpretive Engineering Decision** has the meaning set forth in Section 5.9.1 of the Agreement.

16 **Issue Resolution Ladder** has the meaning set forth in Section 24.2.2 of the Agreement.

17 **ITS Certifications** means the certification required by ADOT's *ITS Design Guide*.

18 **ITS Construction Manager** means the individual described in Section GP 110.08.3.18 of the
19 Technical Provisions.

20 **ITS Design Manager** means the individual described in Section GP 110.08.3.17 of the Technical
21 Provisions.

22 **ITS Element Number Request** means the request described in Section DR 466.3.3 of the Technical
23 Provisions.

24 **ITS Inventory** means the inventory described in Section DR 466.2.3 of the Technical Provisions.

25 **ITS Master Plan** means the plan described in Section DR 466.3.2 of the Technical Provisions.

26 **ITS Testing Documentation** means documentation of the ITS test results as identified in Section
27 CR 466.3.4 of the Technical Provisions.

28 **ITS Training Material** means the training material described in, and satisfying the requirements
29 of, Section CR 466.3.7 of the Technical Provisions.

30 **Journeyman** has the meaning set forth in Section 923-1.03 of Exhibit 7 (ADOT's OJT Special
31 Provisions) to the Agreement.

1 **Key Personnel** means those individuals appointed by Developer and approved by ADOT from
2 time to time to fill the “Key Personnel” positions identified in Section GP 110.08.2 of the Technical
3 Provisions. The specific individuals appointed by Developer and approved by ADOT to initially fill
4 certain of the Key Personnel positions are identified in Exhibit 8-2 (Key Personnel) to the
5 Agreement.

6 **Key Subcontract** means any one of the following Subcontracts for Work Developer causes to be
7 performed:

8 (a) Any Subcontract with the Lead Engineering Firm in respect of the Project;

9 (b) Any Subcontract between a Developer-Related Entity and the Lead O&M Firm in
10 respect of the Project;

11 (c) All Subcontracts with a single Subcontractor that will be responsible for 20% or
12 more of the Construction Work; and

13 (d) Any Subcontract with a firm, other than the Lead Engineering Firm, that will
14 provide Design Work valued at \$5,000,000.00 or more.

15 The term "Key Subcontracts" shall mean all such Subcontracts in the aggregate or more than one
16 of such Subcontracts.

17 **Key Subcontractor** means any of the Subcontractors under a Key Subcontract.

18 **Known Cultural Resource Sites** means those specific locations within the Project area identified
19 in the NEPA Approval that were found to contain cultural resources in class I and class III surveys
20 conducted prior to issuance of the NEPA Approval.

21 **Known or Suspected Hazardous Materials** means Hazardous Materials and Recognized
22 Environmental Conditions that are known or reasonably suspected to exist as of the Setting Date
23 based on information or analysis contained or referenced in the Reference Information
24 Documents as of the Setting Date.

25 **Landscape Area** has the meaning set forth in Section DR 450.3.5 of the Technical Provisions.

26 **Landscaping Establishment Period** has the meaning set forth in Section CR 450.3.4 of the
27 Technical Provisions.

28 **Landslide** means the sudden or gradual displacement of a mass of rock, earth or debris within or
29 adjoining a slope in which the center of gravity of the moving mass advances in a downward and
30 outward direction, where no Developer Act is a proximate cause of the displacement.

31 **Law** means: (a) any law, statute, code, regulation, ordinance, rule or common law; (b) any binding
32 judgment (other than regarding a Claim or Dispute); (c) any binding judicial, administrative or
33 executive order or decree (other than regarding a Claim or Dispute); (d) any written directive,

1 guideline, policy requirement or other governmental restriction (including those resulting from
2 the initiative or referendum process, but excluding those by ADOT within the scope of its
3 administration of the Contract Documents); or (e) any similar form of decision of or
4 determination by, or any written interpretation or administration of any of the foregoing by, any
5 Governmental Entity, in each case which is applicable to or has an impact on the Project or the
6 Work, whether taking effect before or after the Effective Date, including Environmental Laws.
7 The term “Laws”, however, excludes Governmental Approvals.

8 **Lead-Based Paint Removal and Abatement Plan** means the plan described in Section DR 420.3.4
9 of the Technical Provisions and the HZM measures in TP Attachment 420-1 of the Technical
10 Provisions.

11 **Lead Contractor** means Developer, the entity that will perform the Construction Work.

12 **Lead Engineering Firm** means Kiewit Engineering Group Inc., a corporation incorporated under
13 the laws of State of Delaware and the entity that will perform the Design Work for Developer.

14 **Lead O&M Firm** means the entity that will perform the O&M Work for Developer during the
15 Operating Period.

16 **Letter of Acceptance** means the letter from a Utility Company to Developer whereby the Utility
17 Company accepts from Developer the Record Drawings for the corresponding Utility Adjustment
18 Work performed by Developer, as described in Section CR 430.3.1.4 of the Technical Provisions.

19 **Lien** means any pledge, lien, security interest, mortgage, deed of trust or other charge or
20 encumbrance of any kind, or any other type of preferential arrangement (including any
21 agreement to give any of the foregoing, any conditional sale or other title retention agreement,
22 any lease in the nature of a security instrument and the filing of or agreement to file any financing
23 statement under the Uniform Commercial Code of any jurisdiction).

24 **Lighting Design Report** means the report described in, and satisfying the requirements of,
25 Section DR 460.3.4 of the Technical Provisions.

26 **Liquidated Damages** means the liquidated damages specified in Sections 11 and 22 of the
27 Agreement, and in any other part of the Agreement, including the Noncompliance Charges.

28 **Local Jurisdictions** means the City of Phoenix, the County of Maricopa, and the County of Yavapai.

29 **Load Rating Report** means the report described in, and satisfying the requirements of, Section
30 DR 455.3.6.2.2 of the Technical Provisions.

31 **Look-Ahead Schedule** means the schedule described in, and satisfying the requirements of,
32 Section GP 110.06.2.9 of the Technical Provisions.

33 **Loss or Losses** means any loss, damage, injury, liability, obligation, cost, response cost, expense
34 (including attorneys’, accountants’ and expert witnesses’ fees and expenses (including those

1 incurred in connection with the enforcement of any indemnity or other provision of the
2 Agreement)), fee, charge, judgment, penalty, fine or third party claims. The term “Loss” includes
3 injury to or death of persons, damage or loss of property, and harm or damage to natural
4 resources.

5 **Maintenance Coordinator** means the individual described in Section GP 110.08.3.19 of the
6 Technical Provisions.

7 **Maintenance During Construction** means the operations, maintenance and repair Work in
8 connection with the Project that Developer is required to perform pursuant to the Contract
9 Documents prior to South Segment Substantial Completion (if applicable) and Project Substantial
10 Completion, as more fully described in Section GP 110.12 of the Technical Provisions. For clarity,
11 Maintenance During Construction is included in the D&C Work.

12 **Maintenance Information System** means the database that tracks Developer’s performance of
13 maintenance and related information, as more particularly described in Section OMR 400.2.5 of
14 the Technical Provisions.

15 **Maintenance Unit Device Decal Request** means the Developer’s written request to ADOT for
16 unit device decals, as described in Section CR 460.3.3 of the Technical Provisions.

17 **Major Closure** has the meaning set forth in Section DR 462.3.3.1 of the Technical Provisions.

18 **Major Closure Package** means the Submittal package described in, and satisfying the
19 requirements of, Section DR 462.3.3.1 of the Technical Provisions.

20 **Materials Design Memorandum** means the memorandum described in Section DR 419.3.1 of the
21 Technical Provisions.

22 **Materials Design Report** means a report described in Section DR 419.3.6 of the Technical
23 Provisions.

24 **Measurement Record** means, for each Maintenance Element, the measurement record set forth
25 in the column headed “Measurement Record” in TP Attachment 500-1 of the Technical
26 Provisions.

27 **Meeting Notes** means the notes that Developer records from Project-related meetings
28 Developer attends, as described in Section GP 110.02 of the Technical Provisions.

29 **Meeting Notice** means the notification to ADOT and/or other attendees of a Project-related
30 meeting that includes the elements described in Section GP 110.02 of the Technical Provisions.

31 **Meeting Schedules and Agendas** means the documentation describing the date, time and
32 recurrence of a meeting, the items that will be covered in a meeting, and the order in which the
33 items will be discussed.

- 1 **MIS Architecture** has the meaning set forth in Section OMR 400.2.5.2 of the Technical Provisions.
- 2 **Mockups** means the mockups described in, and satisfying the requirements of, Section CR
3 450.3.1.2 of the Technical Provisions.
- 4 **Monthly O&M Payment** means 1/12th of the applicable Annual O&M Payment.
- 5 **Monthly O&M Work Report** means the report described in Section OMR 400.3.3A of the
6 Technical Provisions.
- 7 **Monthly Progress Report** means the report described in Section GP 110.06.2.8 of the Technical
8 Provisions.
- 9 **Monthly Progress Schedule** means the schedule, consistent with the Completion Deadlines,
10 submitted by Developer as a condition of NTP 2 and with each Payment Request, setting forth
11 the approved schedule of Work on a monthly basis against which any subsequent schedule
12 amendments are tracked, as more particularly described in Section GP 110.06.2.7 of the
13 Technical Provisions.
- 14 **MOT Manager** means the individual described in Section GP 110.08.2.4 of the Technical
15 Provisions.
- 16 **MOT Task Force** means the task force described in, and satisfying the requirements of, Section
17 DR 462.2.2 of the Technical Provisions.
- 18 **MOT Task Force Invitees List** means the list described in Section GP 110.02.5 of the Technical
19 Provisions.
- 20 **MSE Wall Drawings** means the drawings described in Section CR 455.3.2 of the Technical
21 Requirements.
- 22 **Necessary Schematic ROW Change** means real property (which term is inclusive of all permanent
23 estates and interests in real property), improvements and fixtures located outside the Schematic
24 ROW that must be permanently acquired in order for Developer to deliver the Basic Configuration
25 and satisfy the requirements of the Contract Documents. A Necessary Schematic ROW Change
26 arises only where indicated in Section 16.4.15 of the Agreement.
- 27 **NEPA Approval** means the approval of a Categorical Exclusion (“CE”) approved by ADOT on
28 August 6, 2019.
- 29 **NEPA Approval Package** means the package described in, and satisfying the requirements of,
30 Section DR 420.2.6.1 of the Technical Provisions.
- 31 **Network Administration Plan** means the plan described in, and satisfying the requirements of,
32 Section GP 110.05.4.2 of the Technical Provisions.

- 1 **Node Building Access Request** means the notice from Developer to ADOT requesting access to a
2 node building and satisfying the requirements of Section CR 466.3.2.4 of the Technical Provisions.
- 3 **NOI** means the ADEQ form that requests coverage under the AZPDES stormwater construction
4 general permit.
- 5 **Noncompliance Charges** means the amounts of Liquidated Damages specified in Section 22.4 of
6 the Agreement.
- 7 **Noncompliance Event** means any Developer breach or failure to perform any one of the
8 obligations set forth in the Noncompliance Event Tables.
- 9 **Noncompliance Event Tables** means, collectively, the D&C Period Noncompliance Event Table
10 and O&M Period Noncompliance Table set forth in Exhibit 14 (Noncompliance Event Tables) that
11 identifies the Noncompliance Events and corresponding cure period, if any, that apply during the
12 Term. The Noncompliance Event Tables are subject to change in accordance with Section 19.1.2
13 of the Agreement.
- 14 **Noncompliance Points** means the point(s) ADOT may assess against Developer for the
15 occurrence of Noncompliance Events, in accordance with Section 19.3 of the Agreement and the
16 D&C Period Noncompliance Event Table or O&M Period Noncompliance Event Table, as
17 applicable.
- 18 **Noncompliance Report** has the meaning set forth in Section 19.2.1(c) of the Agreement.
- 19 **Nonconforming Work** means Work that does not conform to the requirements of the Contract
20 Documents, the Governmental Approvals, applicable Law or the Design Documents.
- 21 **Non-Routine Maintenance Work** means temporary and permanent maintenance and repair
22 Work, including capital repairs and reconstruction, necessary to:
- 23 (a) correct any Defect in the D&C Work within the O&M Limits that is discovered during the
24 O&M Period, regardless of whether such Defect is the result of negligence or otherwise;
- 25 (b) correct any Nonconforming Work within the O&M Limits that is discovered during the
26 O&M Period, regardless of whether such Nonconforming is the result of negligence or
27 otherwise;
- 28 (c) correct damage to O&M Elements that results from any such Defect or Nonconforming
29 Work, or from a Developer Act; or
- 30 (d) correct damage to O&M Elements that results from an Incident or Emergency or response
31 thereto.

- 1 **Notice** means a written notice, notification, correspondence, order or other communication
2 given under the Agreement to a Party that complies with the prescriptions set forth in Section
3 27.12 of the Agreement.
- 4 **Notice of Intent** means the ADEQ form that requests coverage under the AZPDES stormwater
5 construction general permit.
- 6 **Notice of Termination** means the ADEQ form that terminated coverage under the AZPDES
7 stormwater construction general permit.
- 8 **Notice of Termination for Convenience** means a Notice issued by ADOT to Developer terminating
9 the Work of Developer for convenience under Section 26.1 of the Agreement.
- 10 **Notification** means any notice to Developer’s O&M Manager or Maintenance Coordinator which
11 is posted in the Management Information System. In the case of an Emergency, such notice can
12 be by any effective means.
- 13 **Noxious and Invasive Species Control Plan** means the plan described in Section DR 450.2.4 of
14 the Technical Provisions.
- 15 **NTP 1** means a written notice issued by ADOT to Developer authorizing Developer to proceed
16 with the portion of the Work described in Section 9.3 of the Agreement.
- 17 **NTP 2** means a written notice issued by ADOT to Developer pursuant to Section 9.4 of the
18 Agreement authorizing Developer to proceed with design and construction of the Project.
- 19 **O&M Bonds** means, collectively, the O&M Performance Bond and the O&M Payment Bond.
- 20 **O&M Change** means any alteration or change (including addition) to provisions in the Technical
21 Provisions, including to Applicable Standards and Safety Standards, that relate to the O&M Work.
22 Such alterations or changes include revisions to manuals, publications and guidelines, adoption
23 of new manuals, publications and guidelines, changed, added or replacement standards, criteria,
24 requirements, conditions, procedures and specifications, including Applicable Standards and
25 Safety Standards that relate to the O&M Work.
- 26 **O&M Conditions Precedent** means the conditions precedent, set forth in Section 8.6.4 of the
27 Agreement, to the commencement of the O&M Work.
- 28 **O&M Draw Request** means a draw request and certificate described in Section 15.7.1 of the
29 Agreement.
- 30 **O&M Elements** means the Elements that Developer shall operate and/or maintain as part of the
31 O&M Work.
- 32 **O&M Guaranty** has the meaning set forth in Section 12.7.1 of the Agreement.

- 1 **O&M Limits** shall mean the limits of the Project ROW, excluding areas ADOT will operate and
2 maintain as defined or depicted in Section OMR 400.1 of the Technical Provisions and the
3 Schematic Design provided in the Reference Information Documents.
- 4 **O&M Manager** means the individual described in Section GP 110.08.3.4 of the Technical
5 Provisions. The O&M Manager is one of the Key Personnel listed in Exhibit 8-2 (Key Personnel) of
6 the Agreement.
- 7 **O&M Payment Bond** has the meaning set forth in Section 12.2.2 of the Agreement in the form
8 of Exhibit 9-3 (Form of O&M Payment Bond) to the Agreement.
- 9 **O&M Performance Bond** has the meaning set forth in Section 12.2.1 of the Agreement in the
10 form of Exhibit 9-1 (Form of O&M Performance Bond) to the Agreement.
- 11 **O&M Period** means the period beginning on the Project Substantial Completion Date and ending
12 three years after the first to occur of (a) the Project Substantial Completion Date or (b) the Project
13 Substantial Completion Deadline, as such deadline may be extended by Relief Events.
- 14 **O&M Period Noncompliance Event Table** means the Noncompliance Event Table, set forth in
15 Exhibit 14-2 (O&M Period Noncompliance Event Table) to the Agreement, that identifies the
16 Noncompliance Events and corresponding cure periods, if any, that apply during the O&M Period.
17 The O&M Period Noncompliance Event Table is subject to change in accordance with Section
18 19.1.2 of the Agreement.
- 19 **O&M Price** means the aggregate amount of the Annual O&M Payments set forth in the O&M
20 Price Breakdown (Exhibit 2-4.2), as adjusted pursuant to Section 15.6.2 of the Agreement. The
21 O&M Price is the price for all O&M Work that Developer shall perform during the O&M Period.
- 22 **O&M Price Breakdown** means the breakdown of the O&M Price set forth in Exhibit 2-4.2 (O&M
23 Price Breakdown) to the Agreement.
- 24 **O&M Work** means any and all operation, management, administration, maintenance, repair and
25 preservation work and services, routine, non-routine and otherwise, that Developer is
26 responsible to perform during the O&M Period as more particularly described in Section 10.1 of
27 the Agreement and Section OMR 400 of the Technical Provisions.
- 28 **O&M Work Plan** means the plan for O&M Work, to be prepared and updated by Developer
29 pursuant to Section OMR 400.2.1 of the Technical Provisions. The O&M Work Plan is part of the
30 Operations and Maintenance Management Plan.
- 31 **O&M Work Schedule** means the schedule for O&M Work, to be prepared and updated by
32 Developer pursuant to Section OMR 400.2.1 of the Technical Provisions. The O&M Work
33 Schedule is part of the O&M Work Plan.
- 34 **OJT Goals** has the meaning set forth in Section 11.3.1 of the Agreement.

1 **OJT Special Provisions** means ADOT’s provisions regarding on-the-job training for the Project set
2 forth in Exhibit 7 (ADOT’s OJT Special Provisions) to the Agreement.

3 **OJT Trainee** has the meaning set forth in Section 923-1.03 of the OJT Special Provisions.

4 **OJT Utilization Plan** means Developer’s ADOT-approved plan for meeting the OJT Goals,
5 described in Section 11.3.3 of the Agreement.

6 **Open Book Basis** means providing ADOT all underlying assumptions and data, documents and
7 information associated with pricing or compensation (whether of Developer or ADOT) or
8 adjustments thereto, including assumptions as to costs of the Work, Extra Work Costs, Delay
9 Costs, schedule, composition of equipment spreads, equipment rates (including rental rates),
10 labor rates and benefits, productivity, estimating factors, design and productivity allowance,
11 contingency and indirect costs, risk pricing, discount rates, interest rates, inflation and deflation
12 rates, insurance rates, bonding rates, letter of credit fees, overhead, profit and other items
13 reasonably required by ADOT to satisfy itself as to the validity or reasonableness of the amount.

14 **Open Trench Safety and Security Plan** means the plan described in Section GP 110.09.2.1.11 of
15 the Technical Provisions.

16 **Operations and Maintenance Management Plan** means the plan prepared by Developer which
17 defines the process and procedures for Developer’s performance of O&M Work as more
18 particularly described in Section 10.2 of the Agreement and Section OMR 400.2.1.1 of the
19 Technical Provisions.

20 **Operations and Maintenance Quality Management Plan** means the plan described in, and
21 satisfying the requirements of, Section GP 110.07.2.1.3 of the Technical Provisions.

22 **Operations and Maintenance Safety Management Plan** means the plan for safety management
23 with respect to the O&M Work, as more particularly described in Section OMR 400.2.1.2 of the
24 Technical Provisions. The OMSMP is a supplement to the Safety Management Plan.

25 **Operations Manual** means the manual described in, and satisfying the requirements of, Section
26 OMR 400.2.1.5 of the Technical Provisions.

27 **Other Personnel** means the individuals described in Section GP 110.08.3 to the Technical
28 Provisions.

29 **Oversight** means monitoring, inspecting, sampling, measuring, spot checking, attending,
30 observing, testing, investigating and conducting any other oversight by ADOT respecting any part
31 or aspect of the Project or the Work, including all the activities described in Section 5.6.2 of the
32 Agreement.

33 **Owner Verification** means sampling and testing performed by ADOT or ADOT’s representatives
34 to verify that the Project is constructed in compliance with the Contract Documents.

1 **Paint Draw Downs** means the paint samples described in Section CR 450.3.1.4.2 of the Technical
2 Provisions.

3 **Pandemic** means the worldwide spread of a new disease designated as an epidemic or pandemic
4 by the WHO or CDC.

5 **Pandemic Law** means a Law that:

6 (a) Is specifically directed at coping with a Pandemic's threat to health and safety;

7 (b) First takes effect after the Setting Date, excluding a Law that is passed or adopted before,
8 but becomes effective after, the Setting Date; provided that if a Law passed or adopted
9 prior to the Setting Date is relaxed or revoked prior to the Setting Date but again passed,
10 adopted or reinstated after the Setting Date in response to a continuance or resurgence
11 of Pandemic outbreak, then its later passage, adoption or reinstatement will be treated
12 as a Law first taking effect after the Setting Date; and

13 (c) Is more burdensome than Laws in effect as of the Setting Date.

14 **Partnering Meetings** has the meaning set forth in Section 24.1.1(a) of the Agreement.

15 **Party** means Developer or ADOT, as the context may require, and "**Parties**" means Developer
16 and ADOT, collectively.

17 **Pavement Design Summary** means the summary described in Section DR 419.3.5 of the Technical
18 Provisions.

19 **Pavement Mix Designs** means the Shop Drawings and Working Drawings that specify the
20 components required to construct the pavement and comply with the Contract Documents.

21 **Paving Plan** means the plan described in, and satisfying the requirements of, Section CR 419.3.1
22 of the Technical Provisions.

23 **Performance Requirements** means, for each O&M Element, the requirements set forth in TP
24 Attachment 500-1 of the Technical Provisions under the heading "Performance Requirements."

25 **Permitted Closure** means:

26 (a) A Closure specified, caused or ordered by, and continuing only for so long as
27 required by, ADOT or any Governmental Entity, or a Utility Company performing work under a
28 permit issued by ADOT, except to the extent such Closure is the result of the negligence, willful
29 misconduct, or breach of applicable Law or contract, by Developer or any Developer-Related
30 Entity;

31 (b) A Closure required due to a Relief Event, provided Developer is using commercially
32 reasonable efforts to: (i) mitigate the impact of such Relief Event; (ii) reopen the affected

1 segment to traffic; and (iii) minimize the impact of Developer’s activities and the Closure to traffic
2 flow; or

3 (c) A Closure that does not trigger Liquidated Damages under Section 22.2 or 22.3 of
4 the Agreement (i.e., at times permitted under in Section DR 462.3 or in Section OMR 400.2.7 of
5 the Technical Provisions).

6 **Persistent Developer Default** has the meaning set forth in Section 19.4.1 of the Agreement.

7 **Person** means any individual, corporation, joint venture, limited liability company, company,
8 voluntary association, partnership, trust, unincorporated organization or Governmental Entity.

9 **Phasing and Construction Sequence Report** means the report described in, and satisfying the
10 requirements of, Section DR 462.3.4 of the Technical Provisions.

11 **Plans** means the plans described in, and satisfying the requirements of, Section GP 110.10.2.6.1
12 of the Technical Provisions.

13 **Plant Availability List** means the list described in, and satisfying the requirements of, Section DR
14 450.3.5.1.

15 **Plant Inventory** means the inventory of plants described in, and satisfying the requirements of,
16 Section DR 450.2.3 of the Technical Provisions.

17 **Point of Service Agreement** has the meaning set forth in Section 15.5.1 of the Agreement.

18 **Preliminary DBE Utilization Plan** means the plan that Developer submitted in its Proposal
19 concerning the recruiting and use of Persons to fulfill the DBE Goals.

20 **Preliminary OJT Utilization Plan** means the plan that Developer submitted in its Proposal
21 concerning the recruiting and use of Persons to fulfill the OJT Goals.

22 **Preliminary Project Baseline Schedule** means the time-scaled, Critical Path network that depicts
23 Project sections, Project milestones, and subordinate activities and their respective durations,
24 sequencing, and interrelationships that represent Developer’s Work plan for designing,
25 constructing, and completing the Project, attached as Exhibit 2-2 (Preliminary Project Baseline
26 Schedule) to the Agreement.

27 **Preserve-in-Place Area** has the meaning set forth in Section DR 450.3.5 of the Technical
28 Provisions.

29 **Price** means either or both of the D&C Price and the O&M Price, as applicable.

30 **Prime Rate** means the prime rate as published from time to time by the board of governors of
31 the Federal Reserve System in statistical release H.15 or any publication that may supersede it.

1 **Principal Investigator** means the individual described in, and satisfying the requirements of,
2 **Section GP 110.08.3.13** of the Technical Provisions.

3 **Prior Rights Documentation** means documents showing that the Utility Company’s facility
4 predates the acquisition of the property for street or highway purposes, or that it occupies an
5 easement or other compensable land right. Such documents provide verification that the Utility
6 Company is entitled to compensation for the cost of Adjustments required to accommodate the
7 Project.

8 **Professional Engineer** means a person who has been granted registration in one or more
9 branches of engineering by the Arizona State Board of Technical Registration, and is authorized
10 to practice professionally in the State of Arizona. If a branch of engineering is included in the title,
11 such as Professional Civil Engineer, registration in that branch shall be required.

12 **Professional Services** means all Work performed under the Agreement other than Construction
13 Work and O&M Work, including the following services and Work:

- 14 (a) Design and engineering;
- 15 (b) Utility Adjustment design;
- 16 (c) Environmental permitting and compliance;
- 17 (d) Public involvement; and
- 18 (e) Surveying.

19 **Professional Services DBE Intended Participation Affidavit Individual** means the affidavit in the
20 form of Attachment D to the DBE Special Provisions.

21 **Professional Services DBE Intended Participation Affidavit Summary** means the affidavit
22 summary in the form of Attachment C to the DBE Special Provisions.

23 **Professional Services Quality Management Plan** means the plan described in, and satisfying the
24 requirements of, **Section GP 110.07.2.1.2** of the Technical Provisions.

25 **Professional Services Quality Manager** means the individual filling the position with the
26 responsibility to cause Developer’s Professional Services staff to implement and follow the
27 methods and procedures contained in the ADOT-approved Professional Services Quality
28 Management Plan in the performance of the Work, as more particularly described in **Section GP**
29 **110.08.3.1** of the Technical Provisions. These methods and procedures include, among others,
30 procedures to ensure all design products are accurate and checked before release. The individual
31 filling this position must have the authority to stop Work and must be collocated whenever the
32 performance of design activities occurs, including design activities related to field design changes.

33 **Prohibited Product** has the meaning set forth in **Section GP 110.13.8** of the Technical Provisions.

1 **Project** means the transportation facilities and all related structures, improvements and systems
2 to be developed, designed, constructed, operated and maintained, or any of the foregoing,
3 pursuant to the terms of the Contract Documents, as more particularly described in TP
4 Attachment 110-1 of the Technical Provisions; provided, however, that, from and after the
5 Project Substantial Completion Date, the term “Project” is limited to the O&M Elements for
6 purposes of any provision of the Contract Documents relating to the O&M Work, except to the
7 extent of Work required for Final Acceptance, warranties from Subcontractors and Suppliers, and
8 the plant establishment period for the non-O&M Elements of the Project. The term “Project”
9 does not include Developer’s Temporary Work Areas.

10 **Project Administration Chapter** means the chapter of the Project Management Plan covering
11 Project administration, as more particularly described in Section GP 110.04.1 of the Technical
12 Provisions.

13 **Project Baseline Schedule** means the schedule, consistent with the Completion Deadlines,
14 submitted by Developer and approved by ADOT as a condition to issuance of NTP 2, setting forth
15 the schedule of Work against which any subsequent schedule amendments are tracked, as more
16 particularly described in Section GP 110.06.2.6 of the Technical Provisions.

17 **Project Bond** means any of D&C Performance Bond, D&C Payment Bond, O&M Performance
18 Bond and O&M Payment Bond provided in accordance with the Agreement.

19 **Project Collateral** means all exhibits, graphics, photography, videography, data, Project
20 newsletters, fact sheets, mailers, media briefing kits, materials and any other stakeholder-facing
21 information that Developer provides to ADOT to notify the public.

22 **Project Environmental Commitment Requirements** means the commitments and obligations set
23 forth in Section TP Attachment 420-1 of the Technical Provisions.

24 **Project Intellectual Property** means all Proprietary Intellectual Property, Developer Intellectual
25 Property and Third Party Intellectual Property incorporated into the Project.

26 **Project Management Plan** means the document submitted by Developer and approved by ADOT
27 containing the component parts, plans and documentation described in Section GP 110.04 of the
28 Technical Provisions.

29 **Project Manager** means the individual described in Section GP 110.08.2.1 of the Technical
30 Provisions. The Project Manager is one of the Key Personnel listed in Exhibit 8-2 (Key Personnel)
31 of the Agreement.

32 **Project Plans** means the Project Management Plan and all component plans thereof, DBE
33 Utilization Plan, OJT Utilization Plan, Document Management Plan, Transportation Management
34 Plan, Utility Coordination Plan, Traffic Control Plan(s), Crisis Communication Plan, Flex Lanes
35 Transition Plan and any other plans that are called for under the Contract Documents and similarly
36 concern processes, management or administration for some aspect of design, construction,

1 operations or maintenance. “Project Plans” do not include “Plans” as defined. Section GP 110.03
2 of the Technical Provisions sets forth a non-exclusive list of Project Plans.

3 **Project ROW** or **Project Right-of-Way** means, except as provided below, any real property (which
4 term is inclusive of all estates, easements, leases and other interests in real property, permanent
5 or temporary) located:

6 (a) Within the lines delineating the outside boundaries of the Project as set forth in
7 the Schematic ROW or as adjusted in accordance with the Contract Documents (including
8 adjustments for Developer-Designated ROW);

9 (b) Outside such lines and required for performance of the Work or construction,
10 operation or maintenance of the Project, including Temporary Construction Easements outside
11 such lines during their terms, and easements and other property interests for the Project and
12 other components and features required for roadway function or environmental compliance;

13 (c) Outside such lines and required for permanent ADOT-owned improvements due
14 to an ADOT-Directed Change; or

15 (d) Outside such lines and required as a Necessary Schematic ROW Change.

16 The term “Project ROW” or “Project Right-of-Way” specifically includes all airspace, surface rights
17 and subsurface rights within the boundaries of the Project ROW or Project Right-of-Way.

18 The term “Project ROW” or “Project Right-of-Way” specifically excludes:

19 (i) Real property for Developer’s Temporary Work Areas outside the
20 boundaries set forth in the Schematic ROW;

21 (ii) Replacement Utility Property Interests; and

22 (iii) After Final Acceptance, any real property for county or city streets or other
23 areas included in the Construction Work that are outside the O&M Limits.

24 **Project Schedule** means one or more, as applicable, of the logic-based critical path schedules
25 (the Project Baseline Schedule, the Monthly Progress Schedule and the Recovery Schedule) for
26 all D&C Work leading up to and including Final Acceptance, and for tracking the performance of
27 such D&C Work, as the same may be revised and updated from time to time in accordance with
28 Section GP 110.06 of the Technical Provisions and the O&M Work Schedule (as revised in
29 accordance with the Agreement).

30 **Project Segment** means the segments identified in the Segment Limits Map.

31 **Project-Specific PIP** means the public involvement plan specific to the Project described in, and
32 satisfying the requirements of, Section CR 425.2.2 of the Technical Provisions.

1 **Project Substantial Completion** means the occurrence of all of the events and satisfaction of all
2 of the conditions set forth in Sections 8.6.1(a) of the Agreement with respect to the Project, as
3 and when confirmed by ADOT’s issuance of a Certificate of Project Substantial Completion for
4 the Project.

5 **Project Substantial Completion Date** means the date on which ADOT issues the Certificate of
6 Project Substantial Completion; provided that if Developer prevails in contesting a denial or delay
7 in issuance of the Certificate of Project Substantial Completion, then it means the latest date that
8 was available to ADOT to issue the Certificate of Project Substantial Completion in compliance
9 with Section 8.6.1 of the Agreement.

10 **Project Substantial Completion Deadline** means the date that is 935 days after the date of
11 issuance of NTP 1, beginning on, and including, the date that ADOT issues NTP 1, as such deadline
12 may be adjusted by Supplemental Agreement pursuant to the Agreement.

13 **Proposal** means Developer’s original Proposal submitted in response to the RFP, including any
14 clarifications.

15 **Proposal Due Date** means July 20, 2021, the deadline for submission of the Proposal to ADOT
16 under the RFP.

17 **Proposer** means each entity that was shortlisted based on ADOT’s evaluation of submissions in
18 response to the Request for Qualifications for the Project issued on October 29, 2019, as
19 amended.

20 **Proposer’s List** is the Proposer’s List of All Subcontractors, Suppliers, Service Providers and
21 Manufacturers described in Section 12.05 of Exhibit 6 (ADOT’s DBE Special Provisions) of the
22 Agreement, which form must be submitted with the Proposal and on a monthly basis with DBE
23 Monthly Utilization Progress Report.

24 **Proprietary Intellectual Property** means the Intellectual Property created, authored or invented
25 under or for the purposes of the Proposal, the Contract Documents or the Project.

26 **Protection in Place** means any action taken to avoid damaging a Utility which does not involve
27 removing or relocating that Utility, including staking the location of a Utility, exposing the Utility,
28 avoidance of a Utility’s location by construction equipment, installing steel plating or concrete
29 slabs, encasement in concrete, temporarily de-energizing power lines, or installing physical
30 barriers. The term includes both temporary measures and permanent installations meeting the
31 foregoing definition.

32 **Public Records Act** means A.R.S., Title 39, Chapter 1, Article 2.

33 **Public Relations Manager** means the individual described in Section GP 110.08.2.7 of the
34 Technical Provisions. The Public Relations Manager is one of the Key Personnel listed in Exhibit 8-
35 2 (Key Personnel) of the Agreement.

- 1 **Pull Box Location Report** means the report described in Section CR 460.3.3 of the Technical
2 Provisions.
- 3 **Punch List** means the itemized list of the Work that remains to be completed prior to South
4 Segment Substantial Completion (if applicable), and after Project Substantial Completion has
5 been achieved and before Final Acceptance, the existence, correction and completion of which
6 will have no material or adverse effect on the normal and safe use and operation of the Project.
- 7 **Qualified Biologist** means the individual described in Section GP 110.08.3.14 of the Technical
8 Provisions.
- 9 **Quality Acceptance** means all planned and systematic actions performed by the Quality Manager
10 in connection with acceptance of D&C Work, as defined in the Contract Documents.
- 11 **Quality Management Plan** means, collectively, the Quality Management Plan General
12 Requirements, the Professional Services Quality Management Plan, the Construction Quality
13 Management Plan, and the Operations and Maintenance Quality Management Plan included in
14 the Project Management Plan and more fully described in Section GP 110.07.2.1 of the Technical
15 Provisions, in each case approved by ADOT.
- 16 **Quality Management Plan General Requirements** means Volume 1 of the QMP, satisfying the
17 requirements of Section GP 110.07.2.1.1 of the Technical Provisions.
- 18 **Quality Manager** means the individual described in Section GP 110.08.2.5 of the Technical
19 Provisions. The Quality Manager is one of the Key Personnel listed in Exhibit 8-2 (Key Personnel)
20 of the Agreement.
- 21 **Quality Records** means the records and documentation described in Section GP 110.07.2.1.3.2
22 of the Technical Provisions.
- 23 **Quarterly Safety & Claims Report** means the report described in Section GP 110.09.2.1.12.2 of
24 the Technical Provisions.
- 25 **Rainfall Records** means the records described in Section CR 420.3.2.2.5.1 of the Technical
26 Provisions.
- 27 **Reasonable Investigation** means the following activities performed by appropriate, qualified and
28 experienced professionals exercising due care and skill and Good Industry Practice prior to the
29 Setting Date:
- 30 (a) Review and analysis of all Technical Provisions;
- 31 (b) Visit and visual, non-intrusive inspection of the Site and surrounding locations,
32 except areas to which access rights have not been made available by the Setting Date;

1 (c) Review and analysis of all Reference Information Documents (including the
2 documents identified in the definition of Known or Suspected Hazardous Materials);

3 (d) Review and analysis of the NEPA Approval;

4 (e) Reasonable inquiry with Utility Companies, including requests for and review of
5 Utility plans provided by Utility Companies;

6 (f) Reasonable inquiry with Governmental Entities that issue Environmental
7 Approvals for the Project or the Work;

8 (g) Review and analysis of Laws applicable to the Project or the Work as of the Setting
9 Date; and

10 (h) Investigation, review and analysis of available public records of county recorders
11 for counties in which any part of the Project is located and of public records available at the ASLD
12 Public Records counter.

13 **Recognized Environmental Conditions** means environmental conditions known to exist within
14 the Project ROW and which the NEPA Approval requires Developer to avoid disturbing or
15 otherwise impacting.

16 **Record Drawings** means Plans and related documentation revised to show changes made during
17 the construction process usually based on modified or edited Final Design Documents Submittals
18 furnished by Developer as more fully described in Section GP 110.10.2.7.4 of the Technical
19 Provisions.

20 **Record Retention Period** means a period of five years after the end of the Term, or until all
21 disputes, if any, concerning the Agreement or the Project have been resolved, whichever occurs
22 later, or for such longer period as may be required by Law.

23 **Recovery Schedule** means the schedule Developer is required to provide under Section 9.9 of
24 the Agreement and more fully described in Section GP 110.06.2.10 of the Technical Provisions.

25 **Reference Information Documents** means those documents listed in Exhibit 3 (List of Reference
26 Information Documents) to the Agreement. Except as expressly provided in the Contract
27 Documents, the Reference Information Documents are not part of Contract Documents and were
28 provided to Developer for informational purposes only and without representation or warranty
29 by ADOT.

30 **Regional General Permit 96** means the Regional General Permit 96 (Routine Transportation
31 Activities - Arizona) issued by the U.S. Army Corps of Engineers under Section 404 of the Clean
32 Water Act (33 U.S.C. §1344) for the placement of dredged and fill material into waters of the
33 United States.

1 **Related Transportation Facilities** means all existing and future highways, streets, and roads,
2 including upgrades and expansions thereof, that are or willing to be adjacent to, connecting with
3 or crossing under of over the Project.

4 **Release of Hazardous Materials** means any spill, leak, emission, release, discharge, injection,
5 escape, leaching, dumping or disposal of Hazardous Materials into the soil, air, water,
6 groundwater or environment, including any exacerbation of an existing release or condition of
7 Hazardous Materials contamination.

8 **Relief Event** means any of the following events, subject to the requirements, limitations,
9 deductibles and the duty to prevent and to mitigate consequences that are set forth in the
10 Agreement for such events:

11 (a) ADOT's failure to perform or observe any of its covenants or obligations under the
12 Contract Documents and such failure has a material impact on the Project Schedule or the ability
13 of the Developer to carry out its obligations under the Contract Documents;

14 (b) ADOT-Directed Change;

15 (c) ADOT-Caused Delay;

16 (d) Force Majeure Event;

17 (e) Utility Company Delay (except with respect to the ADOT Broadband Initiative for
18 I-17);

19 (f) Inaccurate Utility Information that directly affects the Construction Work, subject
20 to the following exclusions:

21 (i) Construction Work on any Developer-Designated ROW;

22 (ii) Inaccurate Utility Information with respect to Service Lines;

23 (iii) Where the existence of a Utility in the correct location or size, or of a Utility
24 Company's Prior Rights Documentation, as applicable, was known to Developer as of the Setting
25 Date, or would have become known to Developer as of the Setting Date by undertaking a
26 Reasonable Investigation prior to the Setting Date; and

27 (iv) Inaccurate Utility Information with respect to the ADOT Broadband
28 Initiative for I-17;

29 (g) Discovery during the D&C Period at, near or on the Project ROW of any Hazardous
30 Materials (including ADOT Releases of Hazardous Material), excluding Developer Releases of
31 Hazardous Materials and Known or Suspected Hazardous Materials;

- 1 (h) Any sudden Release of Hazardous Material by a third party who is not acting in
2 the capacity of a Developer-Related Entity, which (i) occurs after the Setting Date and prior to
3 the end of the D&C Period, (ii) is required to be reported to a Governmental Entity, and (iii)
4 renders use of the roadway or construction area unsafe or potentially unsafe absent assessment,
5 containment or remediation;
- 6 (i) Discovery during the D&C Period on or under the Project ROW of any
7 archaeological, paleontological or cultural resources, excluding any such resources at the Known
8 Cultural Resource Sites;
- 9 (j) Discovery during the D&C Period of Differing Site Conditions;
- 10 (k) Discovery during the D&C Period at, near or on the Project ROW of any Threatened
11 or Endangered Species (regardless of whether the species is listed as threatened or endangered
12 as of the Setting Date), excluding any such presence of the American Bald Eagle or other species
13 known to Developer prior to the Setting Date or that would become known to Developer by
14 undertaking Reasonable Investigation;
- 15 (l) Change in Law or Change in Adjustment Standards, except a Change in Adjustment
16 Standards that is consistent with the terms and limitations, if any, on changes in Adjustment
17 Standards set forth in any Utility Agreement to which Developer is a party or which Developer
18 has assumed;
- 19 (m) Unreasonable delay, beyond Developer’s reasonable control, in obtaining new or
20 modified Governmental Approvals necessary for implementing an approved ATC;
- 21 (n) Delay or failure of the U.S. Army Corps of Engineers to provide a Section 404
22 Permit for the Project or portion thereof within 180 days after (i) Developer fulfills all
23 requirements for issuance of such permit, including preparation and submission of a
24 Governmental Approval Package, (ii) ADOT has approved such Governmental Approval Package,
25 (iii) a Section 401 Water Quality Certification has been issued, and (iv) either (A) the U.S. Army
26 Corps of Engineers determines that the Governmental Approval Package is complete, or (B) if
27 such determination is unavailable because the U.S. Army Corps of Engineers has generally
28 suspended processing Section 404 Permits at or after the time of submission, it is likely that the
29 U.S. Army Corps of Engineers would determine, by 15 days after submission, that the
30 Governmental Approval Package is complete had it not suspended processing;
- 31 (o) A material change in requirements, terms and conditions of the Section 404
32 Permit issued by the U.S. Army Corps of Engineers from those set forth in the RIDs, except for
33 changes attributable to any differences in Developer’s Design Documents from the Schematic
34 Design that ADOT submitted to the Corps;
- 35 (p) The existence of any agreement, easement, right of entry, covenant, condition,
36 restriction or other instrument that meets all of the following provisions:

- 1 (i) It encumbers ADOT’s right, title or interest in and to Project ROW;
- 2 (ii) It is not a Utility easement, license or right of use;
- 3 (iii) It either (A) precludes the contemplated Construction Work or (B)
4 although not precluding the contemplated Construction Work, is materially more burdensome
5 than usual and customary covenants, conditions, restrictions, obligations, terms and provisions
6 imposed or required by the U.S. Bureau of Land Management or the Arizona State Lands
7 Department and the requirements and obligations imposed on Developer by the Contract
8 Documents;
- 9 (iv) It was not known to any Developer-Related Entity as of the Setting Date;
10 and
- 11 (v) It could not have become known to Developer as of the Setting Date by
12 undertaking Reasonable Investigation prior to the Setting Date;
- 13 (q) Issuance of a temporary restraining order, preliminary injunction or other form of
14 interlocutory relief by a U.S. federal or state court of competent jurisdiction that prohibits
15 prosecution of any portion of the Work, except if based on any Developer Act;
- 16 (r) Issuance of a rule, order or directive from the U.S. Department of Homeland
17 Security or comparable State agency regarding specific security threats to the Project or the
18 region in which the Project is located or which the Project serves, to the extent such rule, order
19 or directive requires specific changes in Developer’s normal design, construction or operations
20 or maintenance procedures in order to comply;
- 21 (s) Any Necessary Schematic ROW Change;
- 22 (t) Any damage, interruption or interference to the Work caused by a Defect in the
23 design, construction or physical condition of the Existing Improvements (excluding, however,
24 presence of any Hazardous Materials, Differing Site Condition or archaeological, paleontological
25 or cultural resources) that was not known to Developer as of the Setting Date and could not have
26 been discovered by Developer through Reasonable Investigation;
- 27 (u) Delay by APS in substantially completing the APS Scope of Work for any APS point
28 of service by 18 months after Developer (i) faithfully completes the collaborative design effort
29 described in Section 15.5.3 of the Agreement for such point of service and (ii) consistent
30 therewith submits to APS and APS accepts a service request letter and lockdown sheet for such
31 point of service in form and content required by APS; or
- 32 (v) Any interruption or interference to the Construction Work caused by construction
33 activities that (A) are performed by ADOT’s contractor for the ADOT Broadband Initiative for I-17
34 facilities or its subcontractors, (B) occur within the Project Right of Way, and (c) occur after the
35 date that is September 15, 2022 plus, if applicable, the period of any delay in performing such

- 1 construction activities by such broadband contractor or its subcontractors for reasons other than
2 events beyond its reasonable control.
- 3 **Relief Event Delay** means a delay to a Controlling Work Item, after consumption of all Float
4 available pursuant to Section 9.8.2 of the Agreement, as a direct result of a Relief Event. For
5 clarity, Relief Event Delay includes such delays to Controlling Work Items directly attributable to
6 Developer’s obtaining Environmental Approvals, reevaluations, amendments and supplements
7 of the NEPA Approval, and other Governmental Approvals in connection with a Relief Event, as
8 required under Section 6.3.2 of the Agreement. The term “Relief Event Delay” does not include
9 delay due to loss, damage or destruction described in Section 13.3.8 of the Agreement or, except
10 as provided otherwise in Section 16.6.1 of the Agreement, delay that is concurrent with another
11 delay that is not caused by a Relief Event.
- 12 **Relief Event Notice** means the Notice required to be provided by Developer under Section 16.1.2
13 of the Agreement.
- 14 **Relief Request** has the meaning set forth in Section 16.1.3 of the Agreement.
- 15 **Replacement Utility Property Interest** means any permanent right, title or interest in real
16 property outside of the Project ROW (e.g., a fee or an easement) which is acquired for a Utility
17 being reinstalled in a new location as a part of the Utility Adjustment Work. The term specifically
18 excludes any statutory right of occupancy or permit granted by a Governmental Entity for
19 occupancy of its real property by a Utility.
- 20 **Representative** means, with respect to any Person, any director, officer, employee, official,
21 lender (or any agent or trustee acting on its behalf), partner, member, owner, agent, lawyer,
22 accountant, auditor, professional advisor, consultant, engineer, Subcontractor, other person for
23 whom such Person is, at law, responsible or another representative of such Person and any
24 professional advisor, consultant or engineer designated by such Person as its "representative."
- 25 **Reputation Management Plan** means the plan described in, and satisfying the requirements of,
26 Section CR 425.2.2.3 of the Technical Provisions.
- 27 **Request for Change Proposal** means a written notice issued by ADOT to Developer under Section
28 17.1.2 of the Agreement, advising Developer that ADOT may issue an ADOT-Directed Change or
29 wishes to evaluate whether to initiate such a change pursuant to Section 17.1 of the Agreement.
- 30 **Request for Information** means the request described in Section GP 110.10.2.7.2 of the Technical
31 Provisions.
- 32 **Request for Prior Rights Determination** means a request, as described in, and satisfying the
33 requirements of, Section DR 430.2.4.1 of the Technical Provisions.
- 34 **Request for Proposals** means the request for proposals referenced in Recital E of the Agreement.

1 **Request for Qualifications** means the request for qualifications referenced in Recital C of the
2 Agreement.

3 **Required Minimum O&M Insurance Policies** has the meaning set forth in Section 13.1.14(b)(i) of
4 the Agreement.

5 **Replacement Utility Property Interest** means any permanent right, title, of interest in real
6 property outside of the Project ROW (e.g., a fee or an easement) which is acquired for a Utility
7 being reinstalled in a new location as a part of the Utility Adjustment Work. The term specifically
8 excludes any statutory right of occupancy or permit granted by a Governmental Entity for
9 occupancy of its real property by a Utility.

10 **Results of Internal Audits** has the meaning set forth in Section GP 110.07.2.1 of the Technical
11 Provisions.

12 **RFC Submittal** means the Submittal described in, and satisfying the requirements of, Section GP
13 110.10.2.6.6 of the Technical Provisions.

14 **RFI Log** means the log described in Section GP 110.10.2.7.2 of the Technical Provisions.

15 **RFP Documents** means all of the information and materials supplied to Developer in connection
16 with the issuance of the RFQ and the RFP, including Instructions to Proposers, the Contract
17 Documents, and the Reference Information Documents and any addenda issued in connection
18 with any of the foregoing.

19 **Rock Engineer/Blasting Professional** means the individual described in Section GP 110.08.3.7 of
20 the Technical Provisions.

21 **Routine Maintenance** means all maintenance Work by Developer other than Non-Routine
22 Maintenance Work.

23 **Safety Compliance** means any and all improvements, repair, reconstruction, rehabilitation,
24 restoration, renewal, replacement and changes in configuration or procedures respecting the
25 Project to correct a specific safety condition or risk of the Project that ADOT has determined to
26 exist through investigation or analysis.

27 **Safety Compliance Order** means an order or directive from ADOT to Developer to implement
28 Safety Compliance.

29 **Safety Corrective Measure** means a Submittal describing the corrective measures Developer
30 plans to take to address errors and deficiencies Developer discovers through a safety
31 performance analysis, as described in Section GP 110.09.2.1.12.1 of the Technical Provisions.

32 **Safety Management Plan** means the plan described in, and satisfying the requirements of,
33 Section GP 110.09.2.1 of the Technical Provisions.

1 **Safety Manager** means the individual described in Section GP 110.08.2.6 of the Technical
2 Provisions. The Safety Manager is one of the Key Personnel listed in Exhibit 8-2 (Key Personnel)
3 of the Agreement.

4 **Safety Performance Analysis Report** means the report described in Section GP 110.09.2.1.12.1
5 of the Technical Provisions.

6 **Safety Standards** means those provisions of the Technical Provisions that ADOT indicates that it
7 considers to be important measures to protect public safety, worker safety or the safety of
8 property. As a matter of clarification, provisions of the Technical Provisions primarily directed at
9 durability of materials or equipment, where the durability is primarily a matter of life cycle cost
10 rather than protecting public or worker safety, are not Safety Standards.

11 **Salvage Operation Plan** means the plan described, and satisfying the requirements of, Section
12 CR 450.3.2.4 of the Technical Provisions.

13 **Schedule Narrative** means the narrative described in, and satisfying the requirements of, Section
14 GP 110.06.2.4 of the Technical Provisions.
15

16 **Schedule of Values** means the itemized allocation of Developer’s pricing for each component of
17 the Work.

18 **Schematic Design** means the strip map that ADOT prepared depicting ADOT’s conceptual design
19 for the Project, as included in the Reference Information Documents entitled “Schematic Design
20 Maps.pdf”.

21 **Schematic ROW** means the Project ROW within the boundary lines indicated in the Schematic
22 Design maps that ADOT prepared for the Project, as included in the Reference Information
23 Documents.

24 **Section 401 Water Quality Certification** means the certification review, conducted by the
25 Arizona Department Environmental Quality as authorized under the Clean Water Act (33 U.S.C.
26 §1251 et seq.), that has established the requirements to comply with state water quality
27 standards under Regional General Permit 96, or the review required to determine compliance
28 with state water quality standards when a Section 404 Permit is required.

29 **Section 404 MOA** means the Second Amended and Superseded Memorandum of Agreement
30 dated September 20, 2017 and entered into by and among U.S. Army Corps of Engineers’ Los
31 Angeles District, Arizona Division Office of the FHWA, and ADOT.

32 **Section 404 Permit** means the Regional General Permit 96 or any Section 404 Individual Permit.

33 **Section 404 Individual Permit** means any Section 404 individual permit that may be required for
34 the Project based upon the Final Design and the Schematic ROW.

35 **Seeded Area** has the meaning set forth in Section DR 450.3.5 of the Technical Provisions.

1 **Segment Limits Map** means the map of the Project’s design segments, as described in, and
2 satisfying the requirements of, Section GP 110.10.2.5.2 of the Technical Provisions.

3 **Service Line** means a utility line other than a main utility line, including any meter, that connects
4 or may be connected to a main utility line and services or is available to service individuals,
5 businesses and other entities. A Service Line is that portion of a utility line that extends from the
6 tap of the main utility line, including such tap, through and including any meter, to a consumer’s
7 or potential consumer’s residence(s), business(es) or other improvement(s), facility(ies),
8 equipment or the like, whether existing, planned or potential / possible. Additionally, any and all
9 utility lines that connect to a Service Line, including any and all meters, but excluding main utility
10 lines, are Service Lines.

11 **Service Line Adjustment** means any work or adjustment to a Service Line to accommodate a
12 Utility Adjustment.

13 **Setting Date** means June 20, 2021.

14 **Sewage Discharge Prevention Plan** means the plan described in Section CR 430.2.2.2 of the
15 Technical Provisions.

16 **Shop Drawings and Working Drawings** means the drawings described in Section GP 110.10.2.7.1
17 of the Technical Provisions.

18 **Sign Inventory** means the inventory of Project signs, as more particularly described Section DR
19 460.2.3 of the Technical Provisions.

20 **Signing Concept Plan** means the plan described in, and satisfying the requirements of, Section
21 DR 460.3.3.3 of the Technical Provisions.

22 **Site** means Schematic ROW, Developer-Designated ROW, Replacement Utility Property Interests,
23 any ROW where Work for the Project is to be performed and Developer’s Temporary Work Areas.

24 **Site Documentation** means the documentation described in Section GP 110.11.2 of the Technical
25 Provisions.

26 **Site Documentation Plan** means the plan described in Section GP 110.04.3 of the Technical
27 Provisions.

28 **Soils Management Plan** means the plan described in, and satisfying the requirements of, Section
29 CR 450.3.2.5 of the Technical Provisions.

30 **South Segment** means the portion of the Project from the most southerly terminus of the Project
31 to and including the temporary transition zone into the general purpose lanes as more
32 particularly depicted in the Schematic Design provided in the Reference Information Documents.

1 **South Segment Substantial Completion** means the occurrence of all of the events and
2 satisfaction of all of the conditions set forth in Section 8.6.2(b) of the Agreement with respect to
3 the South Segment, as and when confirmed by ADOT's issuance of a Certificate of South Segment
4 Substantial Completion.

5 **Specialty Inspector** means an inspector that obtains specialized training or certification to Inspect
6 an Element as part of the O&M Work, where then-current FHWA guidance, ADOT guidance or
7 Good Industry Practice provides that such specialized training or certification is desired to order
8 to Inspect that Element.

9 **Stakeholder Inquiry Report** means the Submittal used to report community member-initiated
10 inquiries, as more particularly described in Section CR 425.2.2.11 of the Technical Provisions.

11 **Stakeholder Management System** means the system created by ADOT to manage, monitor, log,
12 respond to and document all inquiries and comments from Project stakeholders.

13 **Starting O&M Period Insurance Benchmarking Premiums** has the meaning set forth in Section
14 13.1.14(d) of the Agreement.

15 **State** means the State of Arizona.

16 **State Highway** means a highway designated as part of the state highway system under A.R.S.
17 Section 28-304.

18 **Stormwater Management Plan** means the plan described in, and satisfying the requirements of,
19 Section CR 420.3.4 of the Technical Provisions.

20 **Stormwater Pollution Prevention Plan** means the plan described in, and satisfying the
21 requirements of, Section CR 420.3.2.2 of the Technical Provisions.

22 **Structure Calculations Report** means the report described in, and satisfying the requirements of,
23 Section DR 455.3.6.2.1 of the Technical Provisions.

24 **Structure Identification Number** means the numbers that ADOT uses to identify new and existing
25 structures.

26 **Structure Type Study Report** means the report described in, and satisfying the requirements of,
27 Section DR 455.3.1 of the Technical Provisions.

28 **Subcontract** means any agreement by Developer with any other Person or Subcontractor to
29 perform any part of the Work, or any such agreement at a lower tier, between a Subcontractor
30 and its lower tier Subcontractor, at all tiers.

31 **Subcontractor** means any Person with whom Developer has entered into any Subcontract to
32 perform any part of the Work on behalf of Developer and any other Person with whom any
33 Subcontractor has further subcontracted any part of the Work, at all tiers.

1 **Submittal** means any individual document, individual work product item or other written or
2 electronic end product or item required under the Contract Documents to be delivered or
3 submitted to ADOT, including those items identified in the Design Submittal Schedule. The term
4 “Submittal” does not include notices, correspondence or invoices for payment. When used in its
5 lower case spelling, the term “submittal” shall have its plain language meaning.

6 **Summary of Final Payments for Construction** means the summary in the form of Attachment F
7 to of the DBE Special Provisions.

8 **Summary of Final Payments for Professional Services** means the summary in the form of
9 Attachment G to of the DBE Special Provisions.

10 **Supplemental Agreement** means a written order issued by ADOT to Developer delineating
11 changes in the Work or in the terms and conditions of the Contract Documents in accordance
12 with Sections 16 or 17 of the Agreement, and establishing, if appropriate, an adjustment to the
13 Contract Price or a Completion Deadline.

14 **Supplier** means any Person not performing work at or on the Site that supplies machinery,
15 equipment, materials, hardware, software, systems or any other appurtenance to the Project to
16 Developer or to any Subcontractor in connection with the performance of the Work. Persons who
17 merely transport, pick up, deliver or carry materials, personnel, parts or equipment or any other
18 items or persons to or from the Site shall not be deemed to be performing Work at the Site.

19 **Surety** means each properly licensed surety company, insurance company or other Person
20 approved by ADOT, which has issued any Project Bond.

21 **Survey Manager** means the individual described in Section GP 110.08.3.5 of the Technical
22 Provisions.

23 **Tangible Net Worth** means the difference between (a) the sum of paid-in capital stock plus
24 preferred stock plus retained earnings, less (b) the sum of treasury stock plus minority interest
25 plus intangible assets (e.g., goodwill, patents, licenses), all determined in accordance with the
26 U.S. Generally Accepted Accounting Principles and as interpreted by the Securities and Exchange
27 Commission in connection with financial statements filed pursuant to the Securities Exchange
28 Act of 1934.

29 **Target** means, for each Element, the target for the Measurement Record set forth in the column
30 headed “Target” in TP Attachment 500-1 of the Technical Provisions.

31 **Technical Provisions** means the Project-specific technical provisions entitled “Technical
32 Provisions” for “I-17, Anthem Way TI to Jct. SR 69 (Cordes Junction)”, bearing Project No. 017 MA
33 229 H6800 01C, as the same may be revised from time to time pursuant to the Agreement.

34 **Temporary Construction Easement** means temporary easements or other temporary property
35 interests granting rights of use to ADOT or Developer, for the limited purposes of carrying out
36 Construction Work or providing detour routes during the Construction Work. Temporary

1 Construction Easements are distinguished from Developer’s Temporary Work Areas by the fact
2 that a Temporary Construction Easement is utilized either to directly carry out the activity of
3 constructing the physical facilities making up the Project or to divert traffic to enable such
4 construction activity.

5 **Term** has the meaning set forth in Section 2.1 of the Agreement.

6 **Termination by Court Ruling** means any of the following:

7 (a) Issuance of a final, non-appealable order by a court of competent jurisdiction to
8 the effect that the Agreement is void or unenforceable or impossible to perform in its entirety,
9 except where void, unenforceable or impossible to perform by reason of Developer’s acts,
10 omissions, negligence, willful misconduct, fraud or breach of warranty or representation;

11 (b) Issuance of a final, non-appealable order by a court of competent jurisdiction that
12 causes impossibility of performance of a fundamental obligation by Developer or ADOT under
13 the Contract Documents or impossibility of exercising a fundamental right of Developer or ADOT
14 under the Contract Documents, and such impossibility cannot be avoided or cured through
15 severability and reformation of the Contract Documents as provided in Section 27.16 of the
16 Agreement; or

17 (c) Issuance of a final, non-appealable order by a court of competent jurisdiction:

18 (i) Permanently enjoining or prohibiting performance or completion of the
19 Construction Work for a material portion of the Project, except where such injunction or
20 prohibition is attributable to Developer’s acts, omissions, negligence, willful misconduct, fraud,
21 breach of an obligation under the Contract Documents or violation of Law or an applicable
22 Governmental Approval, or

23 (ii) Requiring ADOT, either individually or in concert with FHWA, to undertake
24 additional or supplemental evaluations, studies or other work under NEPA that, in ADOT’s sole
25 discretion, is impracticable in light of the purpose and intent of the Agreement or the Project.

26 **Termination Compensation** means each measure of compensation owing from ADOT to
27 Developer upon termination of the Agreement prior to the stated expiration of the Term, as set
28 forth in Section 26 of the Agreement.

29 **Termination for Convenience** means a termination of the Agreement made pursuant to Section
30 26.1 of the Agreement.

31 **Test Blast Report** means the report described in Section CR 416.3.4.6 of the Technical Provisions.

32 **Test Plot Slope Cut Plan** means the plan described in Section CR 416.3.4.1 of the Technical
33 Provisions.

- 1 **Third Party Intellectual Property** means any Intellectual Property owned by any Person unrelated
2 to Developer or its Affiliates or Subcontractors and which is incorporated into the Project.
- 3 **Threatened or Endangered Species** means any species listed by the USFWS as threatened or
4 endangered pursuant to the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 *et seq.* or
5 any species listed as threatened or endangered pursuant to the State endangered species act.
- 6 **Time Impact Analysis** means an analysis, as described in, and satisfying the requirements of,
7 Section GP 110.06.2.11 of the Technical Provisions.
- 8 **Traffic Control Plans** means the plans described in, and satisfying the requirements of, Section
9 DR 462.3.2 of the Technical Provisions.
- 10 **Traffic Operations Center** means ADOT’s central hub for remotely operating and monitoring ITS
11 elements on state highways.
- 12 **Traffic Software** means the software described in Section DR 460.2.2 of the Technical Provisions.
- 13 **Transportation Management Plan** means the plan prepared by Developer for the management
14 of traffic during construction, as more particularly described in 23 C.F.R. 630 Subpart J and
15 Section DR 462.2.3 of the Technical Provisions.
- 16 **TWG Minutes** means the meeting minutes described in Section GP 110.02.4 of the Technical
17 Provisions.
- 18 **Uniform Act** means the Federal Uniform Relocation Assistance and Real Property Acquisition
19 Policies Act, 42 USC §§ 4601 *et seq.*, P.L. 91-646, as amended.
- 20 **Utility** or **utility** means a public, private, cooperative, municipal or government line, facility or
21 system used for the carriage, transmission or distribution of cable television, electric power, heat,
22 telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, hydrocarbons,
23 telecommunications, sewage, storm water not connected with the drainage of the Project, and
24 similar substances that directly or indirectly serve the public. The term “Utility” or “utility”
25 includes (a) private irrigation facilities that are available on a common carriage basis throughout
26 the relevant service area, and (b) the facilities of the ADOT Broadband Initiative for I-17.
- 27 The term “Utility” or “utility” specifically excludes:
- 28 (a) Stormwater facilities providing drainage for the Project ROW;
- 29 (b) Street lights and traffic signals;
- 30 (c) ITS facilities; and
- 31 (d) FMS facilities.

1 The necessary appurtenances to each utility facility shall be considered part of such utility.
2 Without limitation, any Service Line up to and including the meter, connecting directly to a utility
3 shall be considered an appurtenance to that utility, regardless of the ownership of such Service
4 Line.

5 **Utility Adjustment** means each relocation (temporary or permanent), abandonment, Protection
6 in Place, removal (of previously abandoned Utilities as well as of newly abandoned Utilities),
7 replacement, reinstallation, or modification of existing Utilities necessary to accommodate
8 construction, operation, maintenance or use of the Project. For any Utility crossing the Project
9 ROW, the Utility Adjustment Work for each crossing of the Project ROW by that Utility shall be
10 considered a separate Utility Adjustment. For any Utility installed longitudinally within the
11 Project ROW, the Utility Adjustment Work for each continuous segment of that Utility located
12 within the Project ROW shall be considered a separate Utility Adjustment. “Utility Adjustment”
13 does not include development of new Utility facilities in order to bring Utility services to the
14 Project.

15 **Utility Adjustment Coordinator** means the individual described in Section GP 110.08.3.11 of the
16 Technical Provisions.

17 **Utility Adjustment Package** means the package described in Section CR 430.3.2 of the Technical
18 Provisions.

19 **Utility Adjustment Plan** means the plans clearly laying out the necessary Utility Adjustments, as
20 described in Section DR 430.3.1 of the Technical Provisions.

21 **Utility Adjustment Work** means all efforts and costs necessary to accomplish the required Utility
22 Adjustments, whether provided by Developer or a Utility Company, including all coordination,
23 design, design review, permitting, construction, inspection, maintenance of records,
24 relinquishment of Existing Utility Property Interests, preparation of Utility Adjustment plans and
25 drawings, and assistance for ADOT’s acquisition of Replacement Utility Property Interests. The
26 term also includes any reimbursement of Utility Companies that is Developer’s responsibility
27 pursuant to Section 7.4.4 of the Agreement. Any Utility Adjustment Work furnished or performed
28 by Developer is part of the Work. Any Utility Adjustment Work furnished or performed by a Utility
29 Company is not part of the Work.

30 **Utility Agreement** means an agreement between Developer and a Utility Company, or between
31 ADOT and a Utility Company that Developer assumes, that establishes the rights and obligations
32 of Developer and the Utility Company with respect to one or more Utility Adjustments. In the
33 case of an agreement with a Utility Company that holds prior rights, ADOT may be a party to the
34 agreement together with Developer. Such an agreement may be general or comprehensive or
35 may address only certain aspects of a Utility Adjustment.

36 **Utility Clearance Letter** means the letter described in Section DR 430.2.4.3 of the Technical
37 Provisions.

1 **Utility Company** means the owner or operator of any Utility (including both privately held and
2 publicly held entities, cooperative utilities, and municipalities and other governmental agencies).

3 **Utility Company Delay** means, only with respect to a necessary Utility Adjustment, delay to the
4 Critical Path caused by:

5 (a) A Utility Company’s failure to provide material information necessary for
6 Developer to present to the Utility Company a proposed design package for the applicable Utility
7 Adjustment and proposed Utility Agreement for negotiation, within 45 days after (i) ADOT
8 receives Developer’s request for ADOT’s assistance as described in Section 7.4.7(b) of the
9 Agreement, and (ii) ADOT receives satisfactory evidence that Developer satisfied the “conditions
10 to assistance” set forth in Section 7.4.7(c)(i) of the Agreement;

11 (b) A Utility Company’s failure to negotiate and execute a Utility Agreement that
12 ADOT has approved as containing commercially reasonable material terms, schedule and
13 conditions consistent with Section 7.4.2(b) of the Agreement within 90 days after:

14 (i) Developer presents to the Utility Company a proposed Utility Agreement
15 that includes such material terms, schedule and conditions and a complete design package for
16 the Utility Agreement;

17 (ii) ADOT receives Developer’s request for ADOT’s assistance as described in
18 Section 7.4.7(b) of the Agreement; and

19 (iii) ADOT receives satisfactory evidence that Developer satisfied the
20 “conditions to assistance” set forth in Section 7.4.7(c)(i) of the Agreement;

21 (c) A Utility Company’s failure to timely perform its other obligations under the
22 applicable, executed Utility Agreement, provided that the schedule in the applicable Utility
23 Agreement sets forth reasonable timelines for the Utility Company to perform its other
24 obligations, as determined by ADOT in its good faith discretion; or

25 (d) Failure of a Utility Company to reasonably cooperate specifically because it
26 disputes ADOT’s determination that it lacks proper Prior Rights Documentation, provided that,
27 Developer makes reasonable efforts to resolve the dispute and proceeds with Utility Adjustment
28 Work pending its resolution.

29 Notwithstanding the foregoing, any delay by a Utility Company caused by, among other things,
30 the failure of any Developer-Related Entity (i) to locate or design the Project diligently, (ii) to carry
31 out the Work in accordance with the Contract Documents, the Adjustment Standards, the
32 applicable Utility Agreement, the NEPA Approval, other Governmental Approval and applicable
33 Law, or (iii) to cooperate with reasonable requests from the Utility Company shall not be
34 considered Utility Company Delay.

35 **Utility Company Project** means the design and construction by or at the direction of a Utility
36 Company (or by Developer pursuant to Section 7.4.6 of the Agreement) of a new Utility other

1 than as part of a Utility Adjustment. Betterments are not Utility Company Projects. Utility
2 Company Projects shall be entirely the financial obligation of the Utility Company.

3 **Utility Coordination Plan** means the plan described in, and satisfying the requirements of,
4 **Section DR 430.2.2.1** of the Technical Provisions.

5 **Utility Information** means the information regarding Utilities available through Reasonable
6 Investigation, including information regarding Utilities in the Reference Information Documents
7 or in recorded instruments with a county recorder for a county in which any part of the Project
8 is located, together with any other information ADOT provided to Developer prior to the Setting
9 Date with regard to identification of Utilities. The Utility Information includes:

- 10 (a) Survey information regarding existing utilities;
- 11 (b) Utility maps included as an overlay on the survey;
- 12 (c) As-built maps for existing Utilities;
- 13 (d) Prior Rights Documentation; and
- 14 (e) Other information as to the existence or nature of any rights or interests of any
15 Utility Company relating to use or occupancy of real property. In the event of any conflict within
16 the various components of the Utility Information, the more accurate information will prevail.

17 **Utility Memorandum of Understanding** or **Utility MOU** means each memorandum of
18 cooperation, memorandum of understanding or other document entered into between, or
19 mutually accepted by, ADOT and a Utility Company pertaining to Utility Adjustments.

20 **Utility Record Drawings** means the drawings described in, and satisfying the requirements of,
21 **Section CR 430.3.1.4** of the Technical Provisions.

22 **Utility Report** means the utility report described in, and satisfying the requirements of, **Section**
23 **DR 430.3.3** of the Technical Provisions.

24 **Utility Service Request Letter** means the letter described in, and satisfying the requirements of
25 **Section DR 430.3.5** of the Technical Provisions.

26 **Utility Work Acceptance Request** means the request described in **Section CR 430.3.1.2** of the
27 Technical Provisions.

28 **Vehicle Project Logo** means the Project logo to be placed on vehicles, as more particularly
29 described in **Section GP 110.05.4.3** of the Technical Provisions.

30 **Work** means all of the work and services required under the Contract Documents, including all
31 administrative, design, engineering, assistance with ADOT's ROW acquisition, support services,
32 Utility Adjustment Work to be furnished or provided by Developer, reimbursement of Utility

1 Companies for Utility Adjustment Work furnished or provided by such Utility Companies or their
2 contractors and consultants, procurement, professional, manufacturing, supply, installation,
3 construction, supervision, management, testing, verification, labor, materials, equipment,
4 maintenance, documentation and other duties and services to be furnished and provided by
5 Developer as required by the Contract Documents, including all efforts necessary or appropriate
6 to achieve Final Acceptance and to satisfy the Performance Requirements, except for those
7 efforts that the Contract Documents expressly specify will be performed by Persons other than
8 the Developer-Related Entities. For the avoidance of doubt, Work includes all D&C Work and all
9 O&M Work.