



## INDUSTRIAL COMMISSION OF ARIZONA

Division of Occupational Safety and Health  
P.O. BOX 19070  
PHOENIX, AZ 85005  
Phone: (602)542-5795 FAX: (602)542-1614  
Tucson Office Phone: (520) 628-5478 FAX: (520)322-8008

### Citation and Notification of Penalty

**To:**

City of Phoenix, Fire Department  
150 S 12th St  
Phoenix, AZ 85034

**Inspection Number:** R1538 - 317154078

**Inspection Date(s):** 05/21/2013 -07/30/2013  
**Issuance Date:** 10/18/2013

**Inspection Site:**

39th Ave Miami St  
Phoenix, AZ 85009

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

An inspection of your workplace was recently conducted in accordance with the Arizona Occupational Safety and Health Act (Title 23, Chapter 2, Article 10). The inspection revealed conditions which we believe to be in violation of the Act. The nature of the alleged violation(s) is described in the enclosed Citation(s) with reference to applicable standards, rules and provisions of said Act. Furthermore, you are hereby notified, or will soon be notified, whether or not penalties will be assessed as a result of the cited violation(s). You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within fifteen (15) working days (excluding weekends and legal holidays) from your receipt of this Citation and Notification of Penalty you notify, *in writing*, the Division of Occupational Safety and Health, at the address shown above, of your intent to contest.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of your operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and legal holidays), whichever is longer. **YOU MUST COMPLY WITH THESE POSTING REQUIREMENTS EVEN IF YOU CONTEST THE CITATION.** The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

**Notification of Corrective Action:** - You must certify in writing to the Division that each cited violation has been corrected, in accordance with A.A.C.R20-5-627. This certification must be received within 10 calendar days following the abatement date, for those items which you do not contest. For those items contested, the certification is due immediately following any final order upholding the citation(s). The certification must contain the following: 1) the employer's name and address; 2) the inspection number; 3) the completion date and method

of abatement for each violation; 4) a statement that the information is accurate and, 5) a statement that all affected employees and their representatives have been informed of the completed abatement. This certification is required for all citations - including those classified as non-serious - except those citations marked as "abated on site." (See note below). The *Abatement Certification Form* accompanying this notice may be used to assist with this requirement. In addition to this certification, for those items classified as **serious, willful or repeat**, documentation (photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. For those violations having an abatement date of more than ninety days, abatement plans and progress reports must be submitted to the Division if so indicated on the violation.

Note: Abatement certification and documentation are **not** required for those violations the inspector observed you or your representative correct during the inspection and which are marked as "Abated on site" within this citation.

A follow-up inspection may be made for the purpose of ascertaining that you have posted the citation(s) as required by the Act and corrected the alleged violations. **Failure to correct an alleged violation within the abatement period may result in further penalties of up to \$7000 for each day each alleged violation has not been corrected. Timely correction of an alleged violation does not affect the initial penalty.**

Note: The Act provides that anyone who knowingly gives false information is guilty of a class 2 misdemeanor.

**Informal Conference** - Before deciding whether to file a "Notice of Contest", you may request an informal conference with the section supervisor to discuss the Citation and Notification of Penalty. You may use this opportunity to:

- Obtain a better explanation of the violations cited;
- Obtain a more complete understanding of the specific standards that apply;
- Discuss ways to correct the violations;
- Discuss problems with the abatement dates;
- Discuss problems concerning employee safety practices;
- Resolve disputed citation(s) and penalties;
- Present any evidence or views that you believe would support an adjustment to the citations and/or penalties;
- Negotiate and enter into an Informal Settlement Agreement; and
- Obtain answers to any other questions you might have.

An informal conference is not required. However, you are encouraged to take advantage of the opportunity to have a conference if you foresee any difficulties in complying with any part of the citation. If an informal conference is held, be sure to bring with you any and all supporting documentation of existing conditions, as well as any abatement steps taken thus far. If conditions warrant, we can enter into an Informal Settlement Agreement which amicably resolves this matter without litigation or formal contest.

If you are considering a request for an informal conference, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. For this reason, an informal conference should be held within the 15 working day contest period (see following section). **The running of this contest period is not interrupted by an informal conference.**

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty pursuant to A.R.S. Section 23-417. You may contest all citation items or only individual items. You may also contest penalties and/or abatement dates without contesting the underlying violations. To contest, you must notify the Director, in writing, within 15 working days after receipt of the Citation and Notification of Penalty. **Unless you inform the Director in writing that you intend to contest the citation(s) and/or penalty(ies) within the 15 working day period**

provided by law, the citation(s) and the penalty(ies) shall be deemed a final order of the Commission and not subject to review by any court or agency.

Note: "Notify[ing] the Director" means that ADOSH must receive your written notice of contest prior to the close of business on the 15th working day following receipt of the citations.

If you contest the citation(s), the abatement period specified therein does not begin to run until the date of the Commission's final order in the case provided you have initiated this contest in good faith and not solely for delay or avoidance of penalties.

**Penalty Payment** - Penalties are due within 15 working days of receipt of this notification unless contested. Please make your check or money order payable to "Industrial Commission of Arizona" and indicate on your remittance the Inspection Number found on Page 1 of this notification. ADOSH does not agree to any restrictions, conditions or endorsements put on any check or money order and will cash the check or money order as if these restrictions, conditions or endorsements do not exist.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 calendar days after the discrimination occurred with the Division of Occupational Safety and Health at the address shown above.

**Notice to Employees** - The law gives you or your representative the opportunity to object to any abatement date set for a violation if you believe the date to be unreasonable. The contest must be mailed to the Division Director, P. O. Box 19070, Phoenix, Arizona, 85005-9070 within the abatement period allowed in the citation or within 15 working days from the date of receipt of the citation, whichever is shorter.

**Additional Information** - You should be aware that Federal OSHA publishes information on ADOSH's inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [www.osha.gov](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.

**ABATEMENT CERTIFICATION**

A.A.C. R20-5-627 requires employers to certify to ADOSH, in writing, the abatement of all cited conditions, with the exception of those conditions observed abated by the compliance officer during the course of the inspection. This form is provided to assist you in complying with the abatement certification requirements. Note: For violations classified as willful, repeat or serious, abatement documentation (i.e. photographs, invoices, training records, etc.) must also accompany this certification form.

City of Phoenix, Fire Department  
150 S 12th St  
Phoenix, AZ 85034

The hazard referenced in Inspection Number \_\_\_\_\_ for the violation identified as Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_ by \_\_\_\_\_  
(Specify Action Taken) \_\_\_\_\_

The hazard referenced in Inspection Number \_\_\_\_\_ for the violation identified as Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_ by \_\_\_\_\_  
(Specify Action Taken) \_\_\_\_\_

The hazard referenced in Inspection Number \_\_\_\_\_ for the violation identified as Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_ by \_\_\_\_\_  
(Specify Action Taken) \_\_\_\_\_

The hazard referenced in Inspection Number \_\_\_\_\_ for the violation identified as Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_ by \_\_\_\_\_  
(Specify Action Taken) \_\_\_\_\_

The hazard referenced in Inspection Number \_\_\_\_\_ for the violation identified as Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_ by \_\_\_\_\_  
(Specify Action Taken) \_\_\_\_\_

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

**Industrial Commission of Arizona**  
Division of Occupational Safety and Health

**Inspection Number:** 317154078  
**Inspection Dates:** 05/21/2013 - 07/30/2013  
**Issuance Date:** 10/18/2013  
**CSHO ID:** R1538



**Citation and Notification of Penalty**

**Company Name:** City of Phoenix, Fire Department  
**Inspection Site:** 39th Ave Miami St, Phoenix, AZ 85009

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**Citation 1 Item 1 Type of Violation: **Serious Willful****

A.R.S. 23-403.A.: The employer did not furnish to each of his employees employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to their employees, in that the employer did not require the use of a spotter when backing up fire fighting vehicles.

a) North of the 39th Avenue and Miami Street intersection, Phoenix: A firefighter was killed when he was struck-by and caught between two fire fighting vehicles while one of the vehicles was backing up without the use of a spotter.

Date By Which Violation Must be Abated:	10/24/2013
Assessed Penalty:	\$ 70000.00

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See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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**Citation 1 Item 2** Type of Violation: **Regulatory**

A.R.S. 23-418.01: A willful or repeat violation that caused permanent disabling injury or death to an employee shall result in an additional \$25,000 penalty paid by the employer directly to the injured employee, or in the case of death, his dependents:

- a) Phoenix Fire Department: On May 18, 2013, Firefighter Bradley Harper was killed in the line of duty as a result of a willful violation of A.R.S. 23-403.A.

Date By Which Violation Must be Abated:	11/20/2013
Assessed Penalty:	\$ 25000.00

Director

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## INVOICE/ DEBT COLLECTION NOTICE

**Company Name:** City of Phoenix, Fire Department  
**Inspection Site:** 39th Ave Miami St, Phoenix, AZ 85009  
**Issuance Date:** 10/18/2013  
**Summary of Penalties for Inspection Number** 317154078

Citation 1, Serious Willful	= \$	70000.00
Citation 1, Regulatory		25000.00
<b>TOTAL ASSESSED PENALTIES</b>	<b>= \$</b>	<b>95000.00</b>

To avoid additional charges, please remit payment promptly to this Office for the total amount of the uncontested penalties summarized above. Please make your check or money order payable to: "Industrial Commission of Arizona" within fifteen (15) working days and indicate on your remittance the Inspection Number found on Page 1 of this Notification.

ADOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

If you fail to make payment within thirty (30) days following receipt of this notice, this matter will be referred to our Legal Department. Should that happen you will incur additional liability including collection costs, attorney fees and interest on the judgement.

**Delinquent Charges.** A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made.



Director



Date