

Jack Miller
Mayor

Eric Granillo
Vice -Mayor

Tom Armstrong
Councilmember

John McCafferty
Councilmember

Annie Perkins
Councilmember

Sherri Phillips
Councilmember

Robert Schacherer
Councilmember



TOWN COUNCIL NOTICE & AGENDA

**REGULAR MEETING
TUESDAY, AUGUST 22, 2023
6:00 P.M.**

COUNCIL CHAMBERS | 202 N. STATE ROUTE 89 | CHINO VALLEY, ARIZONA 86323

A majority of the Councilmembers may attend a private invocation in the Council Conference Room immediately prior to the Council meeting. No Town business will be discussed.

AGENDA

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE; ROLL CALL**
- 2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**
 - a.** Presentation of certificates of appreciation to members of the General Plan Steering Committee.
 - b.** Presentation and update from Thomas Stultz, Yavapai Regional Transit Manager.
 - c.** Announcement of promotion of Josh McIntire from Lieutenant to Deputy Chief with the Chino Valley Police Department.
- 3. CALL TO THE PUBLIC- Individuals requesting to speak, please complete a Speaker Comment Card and return to the Clerk.**
Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is at the discretion of the Council and not required by law. Individuals are limited to speak for three (3) minutes, yielding of time will not be permitted. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism. Disrespectful behavior will not be tolerated; this includes loud outbursts, profanity and disruptive discussions among our audience.
- 4. CURRENT EVENT SUMMARIES AND REPORTS**

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.

- a. Status reports by Mayor and Council regarding current events.
- b. Status report by Town Manager Cindy Blackmore regarding Town accomplishments, and current or upcoming projects.

5. **CONSENT AGENDA**

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

- a. Consideration and possible action to award a Professional Services Agreement to Civiltec Engineering, Inc., for the design of the North Road 1 East Improvements project between Juniper Dr and Perkinsville Rd in the amount of \$58,832.00.
- b. Consideration and possible action to award a contract to Traffic Safety, Inc. for the Roadway Pavement Marking Project in the amount of \$76,989.80.
- c. Consideration and possible action to approve the June 12, 2023, study session minutes.
- d. Consideration and possible action to approve the June 27, 2023, regular and special meeting minutes.
- e. Consideration and possible action to approve the July 11, 2023, regular meeting minutes.

6. **ACTION ITEMS**

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a. Consideration and possible action to approve the Intergovernmental Service Agreement with the Chino Valley Unified School District for a School Resource Officer.

Recommended Action: Approve the Intergovernmental Service Agreement with the Chino Valley Unified School District for a School Resource Officer.

- b. Consideration and possible action to approve the Cooperative Purchasing Agreement with Modular Solutions, Ltd., to purchase a modular office building for the Public Works Streets Division for an amount not to exceed \$314,495.55.

Recommended Action: Approve the Cooperative Purchasing Agreement with Modular Solutions, Ltd for an amount not to exceed \$314,495.55.

- c. Public hearing, consideration, and possible action to approve a conditional use permit for Stor-It Arizona, LLC, for a mini-storage with a commercial retail component on a parcel zoned commercial light, located approximately a quarter mile north of the northeast corner of State Route 89 and Road 2 North, Chino Valley, Arizona (306-20-035A).

Recommended Action: i) Hold a Public Hearing ii) Approve CUP-2023-03

- d. Public hearing, consideration, and possible action to approve Ordinance No. 2023-933 to rezone approximately 21 acres of real property located at the southeast corner of N Road 1 East and Red Cinder Road (APN 306-18-009Q and APN 306-18-009R) from Agricultural Residential 5-Acre Minimum to Single Family Residential 1-Acre Minimum.

Recommended Action: i) Hold a Public Hearing ii) Approve Ordinance No. 2023-933

- e. Public hearing, consideration, and possible action to approve Ordinance No. 2023-934 to rezone approximately 1.5 acres of real property located at 443 West Palomino Road (APN 306-06-035A and APN 306-06-036) from Commercial Light to Multiple Family Residential.

Recommended Action: i) Hold a Public Hearing ii) Approve Ordinance No. 2023-934

7. ADJOURNMENT

Dated this 15th day of August, 2023.

By: *Erin N. Deskins, Town Clerk*

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at <http://www.chinoaz.net/agendacenter>, and in the Town Clerk's Office.

Council meetings are live-streamed on Town of Chino Valley Facebook page.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date: _____ Time: _____ By: _____
Erin N. Deskins, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

5. a.

Meeting Date: 08/22/2023
Contact Person: Frank Marbury, Public Works Director/Town Engineer
Department: Public Works
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to award a Professional Services Agreement to Civiltec Engineering, Inc., for the design of the North Road 1 East Improvements project between Juniper Dr and Perkinsville Rd in the amount of \$58,832.00.

RECOMMENDED ACTION:

Award a Professional Services Agreement to Civiltec Engineering, Inc., for the design of the North Road 1 East Improvements project in the amount of \$58,832.00.

SITUATION AND ANALYSIS:

The proposed project will reconstruct North Road 1 East between Juniper Dr and Perkinsville Rd with asphalt and road base. As the project passes by Territorial Early Childhood Center, construction is planned for the summer of 2024.

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 21-78-5408
Available: \$58,832
Funding Source:
 The amount was included in the Fiscal Year 2024 budget.

Attachments

PSA

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
CIVILTEC ENGINEERING, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of August 22, 2023, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Civiltec Engineering, Inc., a California corporation (the “Consultant”).

RECITALS

- A. The Town needs professional engineering services regarding the design of street improvements to portions of North Road 1 East.
- B. The Consultant possesses the skill and experience required to provide the Services.
- C. The Mayor and Town Council have determined it is in the Town’s best interest to enter into an agreement with the Consultant to provide the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Consultant hereby agree as follows:

1. **Term of Agreement.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until March 1, 2024 (the “Initial Term”), unless terminated as otherwise provided in this Agreement.
2. **Scope of Work.** The Consultant shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit A and incorporated herein by reference. The Consultant shall (i) provide the Services required by this Agreement, (ii) be responsible for all means, methods, techniques, sequences, and proceedings associated with the Services, and (iii) be responsible for the acts and omissions of its employees, agents and other persons performing any of the Services under a contract with the Consultant. Prior to commencing the Services, the Consultant shall tour the Project site and become familiar with existing conditions, including utilities, and notify the Town of any constraints associated with the Project site.
3. **Compensation.** The Town shall pay the Consultant an amount not to exceed \$58,832.00 for the Services at the rates set forth in the Fee Proposal, attached hereto as a part of Exhibit A.
4. **Payments.** The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices

shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. The Consultant shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration (“OSHA”), American National Standards Institute, and National Institute for Occupational Safety and Health standards. If, in the Consultant’s sole determination, the Services to be provided do not require a safety plan, the Consultant shall notify the Town, in writing, describing the reasons a safety plan is unnecessary. The Town reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town. The Town may use such documents for other purposes without further compensation to the Consultant; however, any reuse without written verification or adaptation by the Consultant for the specific purpose intended will be at the Town’s sole risk and without liability or legal exposure to the Consultant.

7. Consultant Personnel. The Consultant shall provide experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. The Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire Town residents to fill vacant positions at all levels. The Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel will not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, the Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during the Consultant’s performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

9. Licenses. The Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by the Consultant. The Town has no obligation to provide the Consultant, its employees, or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement.

10. Materials; Equipment. The Consultant shall provide, pay for, and insure under the requisite laws and regulations all labor, materials, equipment, tools, transportation, and other facilities and services necessary for the proper execution and completion of the Services.

11. Performance Warranty. In addition to any specific obligations set forth in Exhibit A, the Consultant warrants that the Services rendered will conform to the requirements of this Agreement and shall be carried out with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

12. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify and hold harmless the Town and each council member, officer, employee, or agent thereof (the Town and any such person being herein called an “Indemnified Party”), for, from, and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys’ fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (“Claims”) to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Consultant, its officers, employees, agents, or any tier of subcontractor in connection with the Consultant’s work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

13. Insurance.

13.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of the Consultant, the Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town’s option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, or by approving or expressing satisfaction with insurance policies and forms pursuant to the provisions of this agreement, the Town does not represent that coverage and limits will be adequate to protect the Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve the Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers’ Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials, and employees as Additional Named Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed, and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. The Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers, and employees for any claims arising out of the work or services of the Consultant. The Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. The Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, the Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and the Consultant. The Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, the Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by the Consultant's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage, but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be the Consultant's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates

of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Town, its agents, representatives, officers, directors, officials, and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 04 13 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) The Consultant’s insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against the Town, its agents, representatives, officers, officials, and employees for any claims arising out of work or services performed by the Consultant under this Agreement.

ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

K. Endorsements. The Consultant shall provide the Town with the necessary endorsements to ensure the Town is provided the insurance coverage set forth in this Section 13.

13.2 Required Insurance Coverage.

A. Commercial General Liability. The Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including

but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials, and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 04 13, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. The Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on the Consultant's owned, hired, and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials, and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors, and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If the Consultant employs anyone who is required by law to be covered by workers' compensation insurance, the Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

13.3 Cancellation and Expiration Notice. The Consultant shall provide at least 30 days prior written notice to the Town before insurance required herein expires, is canceled, or is materially changed.

14. Termination; Cancellation. The Town may, by written notice to the Consultant as set forth in this Section, terminate this Agreement in whole or in part.

14.1 For Town's Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by the Consultant of written notice by the Town. Upon termination for convenience, the Consultant shall be paid for all undisputed services performed to the termination date.

14.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

14.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to the Consultant in the event that the Services are permanently abandoned. If the Consultant abandons the Services without the consent of the Town, the Consultant shall be liable for all actual, incidental, and consequential damages arising from or related to said abandonment, including, but not limited to (A) the difference between the cost of a replacement consultant to complete the Services and the contract price for the Consultant under this Agreement, and (B) any additional charges, costs, fees or expenses for labor, materials or professional services incurred by the Town as a result of delays caused by abandonment of the Services by the Consultant. The Town shall use its best efforts to replace the Consultant within a reasonable time.

14.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

14.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts, or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

14.6 Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then-current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose, and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep the Consultant informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. The Consultant hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this Section.

14.7 Obligations Upon Receipt of Termination Notice. Upon receipt of a notice of termination as set forth above, the Consultant shall (A) immediately discontinue all Services affected (unless the notice directs otherwise), and (B) deliver to the Town copies of all data, reports, calculations, drawings, specifications, and estimates entirely or partially completed, together with all unused materials supplied by the Town, related to the Services including any completed divisible part of the Services which can be deemed to stand alone (the completed divisible parts of the Services will be determined by both parties at the time of termination). Such termination shall not relieve the Consultant of liability for errors and omissions. Any use of incomplete documents for the Services or for any other project without the specific written authorization by the Consultant will be without liability or legal exposure to the Consultant. The Consultant shall appraise the work it has completed and submit the appraisal to the Town for evaluation.

15. Suspension of Work.

15.1 Order to Suspend. The Town may, for its convenience, order the Consultant, in writing, to suspend all or any part of the Services for such period of time as it may determine to be appropriate.

15.2 Adjustment to Contract Sum. If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of the Town in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay (A) to the extent that performance was suspended or delayed for any other cause, including the fault or negligence of the Consultant, or (B) for which a change order is executed.

16. Miscellaneous.

16.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. The Consultant, its employees, and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of the Consultant, its employees, or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as the Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 and in Exhibit A. The Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. The Town and the Consultant do not intend to nor will they combine business operations under this Agreement.

16.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Yavapai County, Arizona.

16.3 Laws and Regulations. The Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes, or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws, and (C) existing and future OSHA standards.

16.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Consultant.

16.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

16.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement that may remain in effect without the invalid provision or application.

16.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other

contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

16.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by the Consultant without prior, written permission of the Town, signed by the Town Manager. Any attempted assignment or delegation by the Consultant in violation of this provision shall be a breach of this Agreement by the Consultant.

16.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by the Consultant.

16.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

16.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

16.12 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

16.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts the Consultant owes to the Town for damages that have been reduced to a judgment resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts the Consultant owes to the Town for

delinquent fees, transaction privilege use taxes, and property taxes, including any interest or penalties.

16.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323
Attn: Cindy Blackmore, Town Manager

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire

If to Consultant: Civiltec Engineering, Inc.
2054 Willow Creek Rd.
Prescott, AZ 86301
Attn: Richard Aldridge, PE

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

16.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. The Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Consultant as needed for the performance of duties under this Agreement.

16.16 Information Technology.

A. Limited Access. If necessary for the fulfillment of this Agreement, the Town may provide the Consultant with non-exclusive, limited access to the Town's information technology infrastructure. The Consultant understands and agrees to abide by all Town policies, standards, regulations, and restrictions regarding access and usage of the Town's information and communication technology resources. The Consultant shall enforce all such policies, standards, regulations, and restrictions with all the Consultant's employees, agents, or any tier of subcontractor granted access in the performance of this Agreement and shall be granted and authorized only such access as may be necessary for the purpose of fulfilling the requirements of this Agreement.

B. Permitted Access. The Consultant's employees, agents, and subcontractors must receive prior, written approval from the Town before being granted access to the Town's information and communication technology resources and data. The Town, in its sole discretion, shall determine accessibility and limitations thereto. The Consultant agrees that the requirements of this Section shall be incorporated into all subcontractor/subconsultant agreements entered into by the Consultant. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. Notwithstanding the provisions in Section 14, a violation of this Section may result in immediate termination of this Agreement without notice.

C. Data Confidentiality. All Town data and technical information, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Consultant in connection with this Agreement, are confidential, proprietary information owned by the Town. Except as specifically provided in this Agreement, the Consultant shall not, without the prior, written consent of the Town Manager or authorized designee, (A) disclose data generated in the performance of the services to any third party, or (B) use Town data and information.

D. Data Security. Personal identifying information, financial account information, or restricted Town information, whether in electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, the Consultant must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When Town information, regardless of its format, is no longer required by the Consultant to execute the work contracted by the Town, the information must be redacted or destroyed through appropriate and secure methods to ensure the information cannot be viewed, accessed, or reconstructed.

E. Compromised Security. In the event that data collected or obtained by the Consultant in connection with this Agreement is believed to have been compromised, the Consultant shall immediately notify the Town Manager, or authorized Town designee. The Consultant agrees to reimburse the Town for any costs incurred by the Town to investigate potential breaches of this data by the Consultant and, where applicable, the cost of notifying and/or assisting individuals who may be impacted by the breach.

F. Disengagement. In the event this Agreement is terminated by either party, the Consultant agrees to confer back to the Town all of its data, in usable and normalized format, within 30 days of notice of termination. There shall be no charge for the return of Town data to the Town.

G. Survival. The obligations of the Consultant under this Section 16.16 shall survive the termination of this Agreement.

16.17 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 16.18, the Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any of the Consultant's and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on the Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 16.18. To the extent necessary for the Town to audit Records as set forth in this subsection, the Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to the Consultant pursuant to this Agreement. The Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give the Consultant or its subcontractors reasonable advance notice of intended audits. The Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

16.18 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). The Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

16.19 Israel. To the extent ARIZ. REV. STAT. § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of this Agreement to not engage in, a "boycott" of goods or services from Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

16.20 Conflicting Terms. In the event of any inconsistency, conflict, or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any Town-approved Purchase Order, or the Fee Proposal, the documents shall govern in the order listed herein.

16.21 Time is of the Essence. The timely completion of the Services is of critical importance to the economic circumstances of the Town.

16.22 Meaning of Terms. References made in the singular shall include the plural and the masculine shall include the feminine or the neuter.

16.23 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

16.24 Forced Labor of Ethnic Uyghurs. To the extent applicable under ARIZ. REV. STAT. § 35-394, the Consultant warrants and certifies that it does not currently, and agrees for the duration of this Agreement that it will not use the forced labor, any goods or services produced by the forced labor, or any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If the Consultant becomes aware that it is not in compliance with this paragraph, the Consultant shall notify the Town of the noncompliance within five business days of becoming aware of it. If the Consultant fails to provide a written certification that it has remedied the noncompliance within 180 days after that, this Agreement shall terminate unless the termination date of this Agreement occurs before the end of the remedy, in which case this Agreement terminates on the contract termination date.

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

“Town”

TOWN OF CHINO VALLEY,
an Arizona municipal corporation

“Consultant”

CIVILTEC ENGINEERING, INC,
a California corporation

Jack W. Miller, Mayor

Richard Aldridge, PE

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
CIVILTEC ENGINEERING, INC.

[Scope of Work and Fee Proposal]

See following pages.



July 11, 2023

Attn: Mr. Frank Marbury, PE
Town of Chino Valley Public Works Director
1982 Voss Drive
Chino Valley, Arizona 86323

Sent Via Email: fmarbury@chinoaz.net

**Subject: Proposal For Town of Chino Valley North Road 1 East Improvements
Civiltec Proposal No. PP23051.00**

Dear Mr. Marbury:

Civiltec engineering, inc. (Civiltec) appreciates the opportunity to provide professional surveying and engineering services to the Town of Chino Valley (Client) for the above referenced project. We understand this project is for improvements to portions of North Road 1 East in the Town of Chino Valley, Arizona.

SCOPE OF SERVICES

Based on our project understanding and professional experience, we understand that Civiltec Engineering will develop construction plans and special provisions for the following roadway project:

1. **North Road 1 East:** Survey and design for full pavement replacement and drainage management for North Road 1 East from the intersection at Juniper Drive and extending north to the intersection at E. Perkinsville Road. The total length of roadway improvements is approximately 5,280'.

Road 2 North, which had previously been included in our design proposal, will not be a part of this project.

The work generally includes a topographic survey of the existing centerline, edge of pavements, edge of shoulders, drainage swales and appurtenances, visible utility appurtenances within the pavement areas, and preparation of plan/profile sheets with cross-sections and standard details for the improvements for the roadway.

The work is anticipated to be a pavement replacement project within the approximate limits of the existing pavement edges. No roadway horizontal realignments are anticipated, with the possible exception of the N. Road 1 E./E Road 2 N intersection, which may require minor modifications. The existing roadway drainage conditions and facilities will be reviewed and the roadway cross-sections modified to eliminate roadside ponding conditions, where possible. Vertical profiles will generally match the existing pavement profile with modifications where necessary to accommodate drainage



improvements. A construction cost estimate and special provisions will be prepared for constructing the roadway improvements for the purpose of publicly bidding the work.

Phase 1. Survey and Plan Preparation

Based on our understanding and professional experience, we have identified the following scope of services.

Task 1 –Topographic Survey

Civiltec will conduct a topographic survey of the existing roadway centerline, edge of pavements, edge of shoulders, roadside drainage features, fencing, surface utilities and any found monuments for the preparation of the roadway plan/profile drawings and details. For N. Road 1 E. the new pavement is anticipated to match the existing horizontal and vertical alignments, with minor modifications included to improve the roadside drainage, centerline profile, horizontal alignment and provide a consistent pavement width.

Task 2 – Preliminary 60% Submittal

Upon completion of Task 1, Civiltec will prepare the preliminary plan-profile sheets and details for the pavement improvements. The 60% preliminary plans will be submitted to the Town for review, coordination and revisions as needed. This submittal will also include a preliminary cost estimate in Bid Schedule format and preliminary project Special Provisions.

Task 3 – Final Bid Documents

After the Town has reviewed and coordinated any needed revisions on the 60% plans, Civiltec will prepare the final plan-profile sheets and details for the pavement improvements. Plans, Special Provisions, Cost Estimate and the Bid Schedule will be provided as stand-alone documents for the Town's use in bidding the project.

Assumptions:

The following assumptions apply to this proposal:

1. The Town will furnish any available GIS data including parcels, utilities, roads, drainage, contours, etc., as is available to approximately locate the roadway rights-of-ways and other improvements.
2. The topographic survey will show the approximate roadway ROW based on occupation lines and/or GIS data. Surface utilities and drainage facilities located within and adjacent to the roadway pavements will be surveyed for location and shown on the construction plans for adjustment to finish grade and/or swale improvements.
3. A boundary survey is not included in this proposal as the improvements will match closely to the existing roadway pavement edges and available GIS data. Any property corners or roadway monuments found during the survey will be included on the construction plans for reference only.
4. The pavement section and roadway design width will be as agreed upon with Town Staff for inclusion in the construction plans. If a geotechnical report is required for pavement section design, it will be furnished to Civiltec by the Town. The roadway design width will match the existing conditions as closely as possible.
5. Civiltec will utilize MAG and Quad-City standards and details for the planned improvements.



6. All submittals will be made via direct email or ShareFile distribution of the electronic files for printing and review by Town Staff and the affected utility providers. The final deliverables will be furnished in electronic and hard copies as noted.
7. Any necessary utility potholing will be provided by the Town.
8. Geotechnical, Archaeological, Environmental, Drainage, 404, Traffic Impact Analysis (TIA), Structural, Electrical, or other similar or incidental required reports and/or services are not included in this proposal.
9. Preparation of Traffic Control Plans is not a part of this proposal. This will be the responsibility of the Contractor.
10. Roadway striping and signs will be called out on the construction plans for replacement in their existing locations where necessary.
11. The preparation of an SWPPP and all associated tasks for permitting and compliance for the project will be the responsibility of the Contractor.
12. Submittals to outside agencies other than the local utility providers are not anticipated or included in this proposal.
13. All bid phase services will be conducted by the Town. No construction or post-design services are included in this proposal.
14. Any required submittals to ADOT or other agencies will be the responsibility of the Town. Planned improvements are not anticipated to encroach into ADOT roadways.
15. No utility replacements or additions are anticipated for the project other than adjusting the existing appurtenances to final finish grade as a part of the paving process.
16. Bidding and post-design services are not included.
17. Where portions of the existing improved roadways exist outside of Town owned right-of-way and/or parcels, it is assumed that the Town has rights to use and improve these portions of the roadways without additional temporary/construction or permanent easements being prepared by Civiltec.

DELIVERABLES

Civiltec will provide the Town with the following deliverables for the project:

Task 2 –Preliminary 60% plan-profile sheets and details. The documents and exhibits will be furnished to the Town of Chino Valley in PDF file format for review and comment. If word.doc, excel or CADD files are requested, those can be furnished as well. The 60% submittal will also include a cost estimate in Bid Schedule format and draft Special Provisions.

Task 3 –Final 100% Plan-Profile sheets and details, project Special Provisions and a Bid Schedule formatted cost estimate. The documents and exhibits will be furnished to the Town of Chino Valley in PDF file format for review and comment. If word.doc, excel or CADD files are requested, those can be furnished as well.

Hard copies will be provided for all submittal documents if requested by the Town.

SCHEDULE

Civiltec is available to commence this project immediately after receipt of a Town signed contract or Purchase Order. It is anticipated that the project will require 12 weeks for the topographic survey

Town of Chino Valley
 North Road 1 East Improvements
 July 11, 2023
 Page 4



and preliminary 60% construction plan sheet development. Final plans and special provisions will be completed 4 weeks after receipt of the 60% plan review comments from the Town. The project is anticipated to be bid in the Fall of 2023 or early Spring of 2024 for construction if weather conditions allow.

FEE DISTRIBUTION SCHEDULE

Professional fees for the above-described services will be billed on a fixed fee basis as summarized below. A breakdown of our hours and fees is included as Attachment A.

SURVEY AND DESIGN	
Task 1 - Topo Survey & Base Maps	\$ 10,314.00
Task 2 - Preliminary 60% Submittal	\$ 38,660.00
Task 3 - Final Bid Documents	\$ 9,858.00
BUDGET	\$ 58,832.00

Any work not authorized within 3 months of the date of this proposal will be subject to renegotiations based on current rates. All fees associated with review and application filings shall be the responsibility of the Client. Additional services may be authorized by the Client through a change order or contract addendum. Civiltec will bill monthly for all work performed and expenses incurred on behalf of the project.

If this proposal is acceptable, please provide Civiltec with a standard Town Contract form or a Purchase Order and a Notice to Proceed to our office at your earliest convenience. Again, thank you for the opportunity to submit this proposal. We look forward to working with you on this project. Please contact the undersigned directly with any comments or questions.

Sincerely,

Civiltec engineering, inc.

Richard E. Aldridge, PE, MBA (raldridge@civiltec.com)
 Principal Engineer / Branch Manager

Attachment(s): A – Breakdown of Hours and Fees
 B – Road 1 East Pavement Improvements Exhibit, 4-6-2023



Attachment A Breakdown of Hours and Fees

TOCV N. ROAD 1 EAST ROADWAY IMPROVEMENTS

Town of Chino Valley
Time and Fee Estimate
PROPOSAL # PP23051.00
Rev Date: July 11, 2023

ATTACHMENT A - TIME AND FEE ESTIMATE



	HOURS						TOTAL COST
Scope of Work	PIC \$ 215.00	SrPM \$ 197.00	SrD \$164.00	Admin \$ 84.00	SM \$ 163.00	2PS \$200.00	
Phase 1 - SURVEY AND PLAN PREPARATION							
Task 1 - Topo Survey & Base Maps			24		6	27	\$ 10,314.00
Task 2 - Preliminary 60% Submittal	6	34	186	2			\$ 38,660.00
Task 3 - Final Bid Documents	6	16	32	2			\$ 9,858.00
HOURS	12	50	242	4	6	27	341
BUDGET							\$ 58,832.00

PIC = Principal Engineer (PE)
PM = Project Manager
PE = Project Engineer (PE)
SE = Staff Engineer (EIT)
CAD = CAD Operator
Admin = Administrative Asst./Clerical
2PS = Two Person Survey Crew
ST = Survey Technician

PrEE = Principal Electrical Engr. (PE)
SrE = Senior Engineer (PE)
SrD = Senior Designer
D = Designer
JrE = Jr. Engineer (Intern)
CO = Construction Observer
1PS = One Person Survey Crew

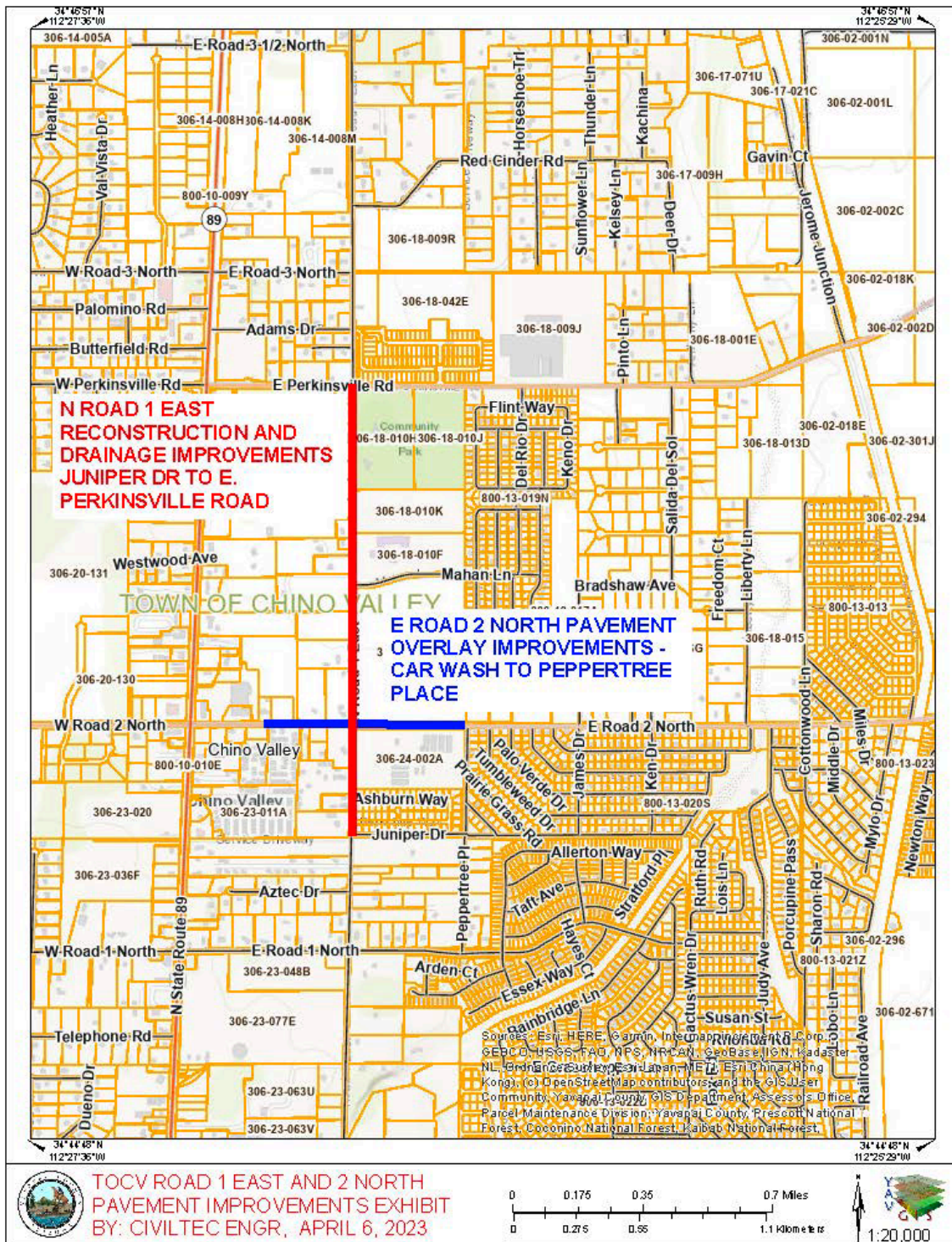
SrPM = Sr. Project Manager
SrPE = Sr. Project Engineer (PE)
SrSE = Sr. Staff Engineer (EIT)
D/CAD = Designer/CAD Operator
PT = Planning Technician
SM = Survey Manager (RLS)
SLS = Staff Land Surveyor (RLS)



Attachment B

Road 1 East Pavement Improvements Exhibit

(East Road 2 North is not a part of this project)





TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

5. b.

Meeting Date: 08/22/2023
Contact Person: Frank Marbury, Public Works Director/Town Engineer
Department: Public Works
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to award a contract to Traffic Safety, Inc., for the Roadway Pavement Marking Project for \$76,989.80.

RECOMMENDED ACTION:

Award a contract to Traffic Safety, Inc., for the Roadway Pavement Marking Project for \$76,989.80.

SITUATION AND ANALYSIS:

The proposed project consists of the installation of centerline striping along the Town's arterial and collector streets as well as stop bars at their respective intersections.

The project was advertised for public bids on June 20th and on August 2nd, two bids were received as follows:

Traffic Safety, Inc.	\$76,989.80
Prescott Valley	

Hawk Contracting LLC	\$176,065.40
Tempe	

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 21-78-5405
Available: 76,989.80
Funding Source:
 The amount was included in the Fiscal Year 2024 Budget.

Attachments

IFB



INVITATION FOR BIDS

Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323

SOLICITATION INFORMATION AND SCHEDULE

Solicitation Title: 2023-0003 Roadway Pavement Marking Project

Release Date: June 20, 2023

Advertisement Dates: June 20-23, 2023 – Prescott Daily Courier

Non-Mandatory Prospective Bidders' Conference: July 12, 2023
9:00 a.m.
Public Works Conference Room
1982 Voss Drive
Chino Valley, Arizona 86323

Final Date for Inquiries: July 20, 2023

Bid Deadline: Aug 2, 2023
3:00 p.m.

Bid Opening: Aug 2, 2023
3:00 p.m.

Town Representative: Steven Sullivan ssullivan@chinoaz.net
Assistant Town Engineer 928-636-3400

In accordance with the Town of Chino Valley Procurement Policy, competitive sealed Bids for the services specified herein will be received at the Town of Chino Valley Public Town Clerks Office at the above-referenced location until the date and time referenced above (the "Bid Deadline"). Bids received by the Bid Deadline shall be publicly opened, and the Bid Price read. Bids must be in the actual possession of the Public Works Department on, or prior to, the Bid Deadline. Late Bids will not be considered and will be returned unopened. Each Bid shall be submitted in a sealed envelope with the Solicitation Name and the Bidder's name and address clearly indicated on the front of the envelope.

ATTENTION

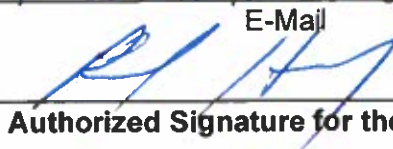
The Town of Chino Valley reserves the right to amend the solicitation schedule as necessary.

All times are local to Chino Valley, Arizona.

**TOWN OF CHINO VALLEY
PUBLIC WORKS DEPARTMENT**

OFFER

The undersigned (the "Bidder") hereby offers this Bid as an offer to contract with the Town under the terms and conditions set forth below and certifies that Bidder has read, understands and agrees to fully comply with, and be contractually bound by, all terms and conditions as set forth in this Invitation For Bids ("IFB"), the Contract formed hereby (as defined below) and any amendments thereto, together with all Exhibits, Specifications, Plans and other documents included as part of this Contract (the "Contract Documents").

For Bid clarification, contact:		
<u>13034136</u> Arizona Transaction Privilege Tax License No.	<u>Russel Hardy</u> Name	
<u>07640690</u> Arizona Corporation Commission File No.	<u>928-775-0813</u> Telephone	
<u>86-0816403</u> Federal Employer ID No.	<u>928-772-8570</u> Facsimile	
<u>Traffic Safety, Inc.</u> Contractor Name	<u>trafficsafetyarizona@gmail.com</u> E-Mail	
<u>8901 E. Laredo Dr.</u> Address	 Authorized Signature for the Contractor	
<u>Prescott Valley</u> <u>AZ</u> <u>86314</u> City State Zip Code	<u>Russel Hardy</u> Printed Name	
<u>President</u> Title		
ACCEPTANCE OF OFFER (FOR TOWN OF CHINO VALLEY USE ONLY)		
Effective Date: _____ Contract: _____ Official File: _____		
TOWN OF CHINO VALLEY, an Arizona municipal corporation		
_____ Jack W. Miller, Mayor		
ATTEST:	APPROVED AS TO FORM:	
_____ Erin N. Deskins, Town Clerk	_____ Andrew J. McGuire, Town Attorney	

**TOWN OF CHINO VALLEY
PUBLIC WORKS DEPARTMENT**

ARTICLE I - DEFINITIONS

For purposes of this Invitation for Bids, the following definitions shall apply:

1.1 “Bid” or “Offer” means a responsive bid or quotation submitted by a Bidder in response to this Invitation for Bids.

1.2 “Bid Deadline” means the date and time set forth on the cover of this IFB for the Town of Chino Valley Public Works Department to be in actual possession of the sealed Bids.

1.3 “Bid Opening” means the date and time set forth on the cover of this Invitation for Bids for the opening of sealed Bids.

1.4 “Bidder” means any person or firm submitting a competitive Bid in response to this IFB.

1.5 “Confidential Information” means that portion of a Bid, Proposal, Offer, Specification or protest that contains information that the person submitting the information believes should be withheld, provided (i) such person submits a written statement advising the Town of this fact at the time of the submission and (ii) the information is so identified wherever it appears.

1.6 “Contract” means, collectively, (i) the executed Offer/Bid, (ii) this IFB, including all completed exhibits, (iii) the Notice of Award, (iv) the Notice to Proceed or Purchase Order(s), (v) any approved Addendum, Change Order or Amendment, (vi) the Contractor’s Certificates of Insurance and a copy of the Declarations Page(s) of the insurance policies and (vii) any Plans, Specifications or other documents attached, appended or incorporated herein by reference. Alternate or optional bid items will become part of the Contract only if they are accepted by the City in writing on the Price Sheet.

1.7 “Contractor” means the individual, partnership, corporation or limited liability company who has submitted a Bid in response to this IFB and who, as a result of the competitive bidding process, is awarded a contract for Materials or Services by the Town.

1.8 “Day(s)” means calendar day(s) unless otherwise specified.

1.9 “Invitation for Bids” or “IFB” means this request by the Town for participation in the competitive bidding process according to all documents, including those attached or incorporated herein by reference, utilized for soliciting Bids for the Services and/or Materials in compliance with the Town’s Procurement Policy.

1.10 “Materials” means any personal property, including equipment, materials, replacements and supplies provided by the Contractor in conjunction with this Contract and shall include, in addition to materials incorporated in the Project, equipment and other material used and/or consumed in the performance of Services or Work.

1.11 “Multiple Award” means an award of an indefinite quantity contract for one or more similar products, commodities or Services to more than one Bidder.

1.12 “Price” means the total expenditure for a defined quantity of a commodity or service.

**TOWN OF CHINO VALLEY
PUBLIC WORKS DEPARTMENT**

1.13 “Procurement Administrator” means a Town employee who has specifically been designated to act as a contact person to the Bidders and/or Contractor relating to their IFB.

1.14 “Procurement Agent” means the Town Manager or authorized designee.

1.15 “Procurement Policy” means the Town’s Procurement Policy, as amended from time to time.

1.16 “Project” means the purpose and Work described as set forth in Section 2.1, Purpose/Scope of Work, of the IFB.

1.17 “Services” means the furnishing of labor, time or effort by a Contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance and as further defined in this Contract. This term does not include “professional and technical services” as defined in the Procurement Policy.

1.18 “Specification” means any description of the physical characteristics, functional characteristics, or the nature of a commodity, product, supply or Services. The term may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

1.19 “Subcontractor” means those persons or groups of persons having a direct contract with the Contractor to perform a portion of the Work and those who furnish Materials according to the plans and/or Specifications required by this Contract.

1.20 “Town” means the Town of Chino Valley, an Arizona municipal corporation.

1.21 “Town Representative” means the Town employee who has specifically been designated to act as a contact person to the Town’s Procurement Administrator, and who is responsible for monitoring and overseeing the Contractor’s performance under this Contract and for providing information regarding details pertaining to the Work.

1.22 “Work” means all labor, Materials and equipment incorporated or to be incorporated in the Project that are necessary to accomplish the Services required by this Contract.

ARTICLE II – BID PROCESS; BID AWARD

2.1 Purpose/Scope of Work. The purpose of this IFB is to secure a qualified, licensed Contractor(s) to paint centerline pavement markings and intersection stop bars along Town arterial and collector roadways, including painted double yellow reflectorized centerline roadway markings and thermoplastic white reflectorized 18-inch stop bars (the “Services”), as more particularly described in the Scope of Work, attached hereto as Exhibit A and incorporated herein by reference. The resulting Contract(s) is/are intended to be an indefinite quantity and indefinite delivery contract(s) for the Services based on the Town’s needs. The Town does not guarantee any minimum or maximum amount of Services will be requested by the Town pursuant to the Contract.

2.2 Amendment of IFB. No alteration may be made to this IFB or the resultant Contract without the express, written approval of the Town in the form of an official IFB addendum or Contract amendment. Any attempt to alter this IFB/Contract without such approval is a violation

**TOWN OF CHINO VALLEY
PUBLIC WORKS DEPARTMENT**

of this IFB/Contract and the Town Procurement Policy. Any such action is subject to the legal and contractual remedies available to the Town including, but not limited to, Contract cancellation and suspension and/or debarment of the Bidder or Contractor.

2.3 Preparation/Submission of Bid. Bidders are invited to participate in the competitive bidding process for the Services specified in this IFB. Bidders shall review their Bid submissions to ensure the following requirements are met.

A. Irregular/Non-responsive Bids. The Town will consider as “irregular” or “non-responsive” and shall reject any Bid not prepared and submitted in accordance with the IFB and Specifications, or any Bid lacking sufficient information to enable the Town to make a reasonable determination of compliance with the Specifications. Unauthorized or unreasonable exceptions, conditions, limitations, or provisions shall be cause for rejection. Bids may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the Procurement Agent, any of the following are true:

1. Bidder does not meet the minimum required skill, experience or requirements to perform the Services or provide the Materials.
2. Bidder has a past record of failing to fully perform or fulfill contractual obligations.
3. Bidder cannot demonstrate financial stability.
4. Bid submission contains false, inaccurate or misleading statements that, in the opinion of the Procurement Agent, are intended to mislead the Town in its evaluation of the Bid.

B. Specification Minimums. Bidders are reminded that the Specifications stated in the Scope of Work as part of this IFB are the minimum levels required and that Bids submitted must be for products or Services that meet or exceed the minimum level of all features specifically listed in this IFB. Bids offering less than the minimums specified will be deemed not responsive. It shall be the Bidder's responsibility to carefully examine each item listed in the Scope of Work.

C. Required Submittal. Bidders shall provide **the entire IFB document (all pages)** that contains the following completed pages/documents to be considered a responsive Bid:

1. Offer (page i), signed in ink by someone authorized to bind the Bidder.
2. Price Sheet (Exhibit B or as subsequently replaced by Addendum).
3. Licenses; Certifications; DBE/WBE Status (Exhibit C).
4. References (Exhibit D).
5. Acknowledgment page, signed in ink, for each Addendum received, if any (Exhibit E).

D. Bidder Responsibilities. All Bidders shall (1) examine the entire Bid package,

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(2) seek clarification of any item or requirement that may not be clear, (3) check all responses for accuracy before submitting a Bid and (4) submit the entire completed Bid package, in accordance with Subsection 2.3(C) above, by the official Bid Deadline. Late Bids shall not be considered. Bids not submitted with an **original, signed** Offer page by a person authorized to bind the Bidder shall be considered non-responsive. Negligence in preparing a Bid shall not be good cause for withdrawal after the Bid Deadline.

E. Sealed Bids. All Bids shall be sealed and clearly marked with the IFB title on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed Bid.

F. Address. All Bids shall be directed or hand-delivered to the following address: Town of Chino Valley Town Clerk's Office, 202 North State Route 89, Chino Valley, Arizona 86323.

G. Bid Forms. All Bids shall be on the forms provided in this IFB. It is permissible to copy these forms if required. Telegraphic (facsimile), electronic (e-mail) or mailgram Bids will not be considered.

H. Modifications. Erasures, interlineations, or other modifications in the Bid shall be initialed in original ink by the authorized person signing the Bid.

I. Withdrawal. At any time prior to the specified Bid Opening, a Bidder (or designated representative) may amend or withdraw its Bid. Facsimile, electronic (e-mail) or mailgram Bid amendments or withdrawals will not be considered. No Bid shall be altered, amended or withdrawn after the specified Bid Deadline, unless otherwise permitted pursuant to the Town Procurement Policy.

2.4 Inquiries; Interpretation of Specifications; Scope of Work.

A. Inquiries. Any question related to the IFB, including any part of the Specifications, Scope of Work or other Contract Documents, shall be directed to the Town Representative whose name appears on the cover page of this IFB. Verbal or telephone inquiries directed to Town staff **will not be answered**. Within two business days following the Final Date for Inquiries listed on the cover page of this IFB, answers to all questions received in writing or via e-mail will be mailed, sent via facsimile and/or e-mailed to all parties who obtained an IFB package from the Town and who legibly provided a mailing address, facsimile and/or e-mail address to the Town. Questions shall be submitted in writing by the date indicated on the cover page of this IFB; the Town will not respond to any inquiries submitted later than the Final Date for Inquiries. The Bidder submitting such inquiry will be responsible for its prompt delivery to the Town. Any correspondence related to the IFB shall refer to the title and number, page and paragraph. However, the Bidder shall not place the IFB number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Bid and may not be opened until the Bid Opening. Any interpretations or corrections of the proposed Contract Documents will be made only by addenda duly approved and issued by the Town. The Town will not be responsible for any other explanations or interpretations of the Contract Documents.

B. Addenda. It shall be the Bidder's responsibility to check for addenda issued to this IFB. Any addendum issued by the Town with respect to this IFB will be available on the

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Town's website at <https://www.chinoaz.net/Bids.aspx>, and in person at Town of Chino Valley Public Works Department, 1982 Voss Drive, Chino Valley, Arizona 86323.

C. Approval of Substitutions. The Materials, products, and equipment described in this IFB establish a standard or required function, dimension, appearance and quality to be met by any proposed substitution. No substitute will be considered unless written request for approval has been received by the Town Representative at least 10 Days prior to the Bid Deadline. Each such request shall include the name of the Material or equipment for which it is to be substituted and a complete description of the proposed substitute, including any drawings, performance and test data and any other information necessary for evaluation of the proposed substitute. If a substitute is approved, the approval shall be by written addendum to the IFB. Bidder shall not rely upon approvals made in any other manner.

D. Use of Equals. When the Scope of Work or Specifications for Materials, articles, products and equipment include the phrase "*or equal*," Bidder may bid upon and use Materials, articles, products and equipment that will perform equally the duties imposed by the general design. The Town Representative will have the final approval of all Materials, articles, products and equipment proposed to be used as an "equal." No such "equal" shall be purchased or installed without prior, written approval from the Town Representative. Approvals for "equals" before Bid Opening may be requested in writing to the Town Representative for approval. Requests must be received at least 10 Days prior to the Bid Deadline. The request shall include the name of the Material, article, product or equipment for which the item is sought to be considered an equal and a complete description of the proposed equal including any drawings, performance and test data and any other information necessary for approval of the equal. All approval of equals shall be issued in the form of written addendum or amendment, as applicable, to this IFB or the Contract.

E. Bid Quantities. It is expressly understood and agreed by the parties hereto that the quantities of the various classes of Services and/or Materials to be furnished under this Contract, which have been estimated as stated in the Bidders' Offer, are only approximate and are to be used solely for the purpose of comparing, on a consistent basis, the Bidders' Offers presented for the Work under this Contract. The selected Contractor agrees that the Town shall not be held responsible if any of the quantities shall be found to be incorrect and the Contractor will not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of Services and/or Materials as estimated and the Services and/or Materials actually provided. If any error, omission or misstatement is found to occur in the estimated quantities, the same shall not (1) invalidate this Contract or the whole or any part of the Scope of Work, (2) excuse Contractor from any of the obligations or liabilities hereunder or (3) entitle Contractor to any damage or compensation except as may be provided in this Contract.

2.5 Prospective Bidders' Conference. A Prospective Bidders' Conference may be held. If scheduled, the date and time of the Prospective Bidders' Conference will be indicated on the cover page of this IFB. The Prospective Bidders' Conference may be designated as mandatory or non-mandatory on the cover of this IFB. Bids shall not be accepted from Bidders who do not attend a mandatory Prospective Bidders' Conference. Bidders are strongly encouraged to attend those Prospective Bidder's Conferences designated as non-mandatory. The purpose of the Prospective Bidders' Conference will be to clarify the contents of the IFB in order to prevent any misunderstanding of the Town's requirements. Any doubt as to the requirements of this IFB or any apparent omission or discrepancy should be presented to the Town at the Prospective Bidders' Conference. The Town will then determine if any action is necessary and may issue a written amendment or addendum to the IFB. Oral statements or instructions will not constitute an

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amendment or addendum to the IFB.

2.6 New Materials. All Materials to be provided by the Contractor and included in the Bid shall be new, unless otherwise stated in the Specifications.

2.7 Pricing. Work shall be provided at the unit prices as set forth in the Price Sheet attached hereto as Exhibit B and incorporated herein by reference. Bid prices shall be submitted on a per unit basis by line item, when applicable, and include all applicable transaction privilege, sales or use tax. In the event of a disparity between the unit price and extended price, the unit price shall prevail. **NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be deemed as a NO BID entry for that item.**

2.8 Payment; Discounts. Any Bid that requires payment in less than 30 Days shall not be considered. Payment discounts of 30 Days or less will not be deducted from the Bid Price in determining the low Bid. The Town shall be entitled to take advantage of any payment discount offered, provided payment is made within the discount period. Payment discounts shall be indicated on Price Sheet.

2.9 Taxes. The Town is exempt from Federal Excise Tax, including the Federal Transportation Tax. Transaction privilege tax, sales tax and use tax, if any, shall be included in the unit price for each line item. It shall not be considered a lump sum payment item. Bidder should not include tax on any allowances. It is the sole responsibility of the Bidder to determine any applicable tax rates and calculate the tax accordingly. Failure to accurately tabulate any applicable taxes may result in a determination that a Bid is non-responsive. The Bidder shall not rely on, and shall independently verify, any tax information provided by the Town.

2.10 Federal Funding. It is the responsibility of the Bidder to verify and comply with federal requirements that may apply to the Work (the "Federal Requirements"). It is also the responsibility of the Bidder to incorporate any necessary amounts in the Bid to accommodate for required federal record-keeping, necessary pay structures or other matters related to the Federal Requirements, if any.

2.11 Cost of Bid/Proposal Preparation. Bids submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Town does not reimburse the cost of developing, presenting or providing any response to this solicitation; the Bidder is responsible for all costs incurred in responding to this IFB. All materials and documents submitted in response to this IFB become the property of the Town and will not be returned.

2.12 Public Record. All Bids shall become the property of the Town. After Contract award, Bids shall become public records and shall be available for public inspection in accordance with the Town's Procurement Policy, except that any portion of a Bid that was designated as confidential pursuant to Section 2.13 below shall remain confidential from and after the time of Bid opening to the extent permitted by Arizona law.

2.13 Confidential Information. If a Bidder believes that a Bid, specification, or protest contains information that should be withheld from the public record, a statement advising the Procurement Agent of this fact shall accompany the submission and the information shall be clearly identified. The information identified by the Bidder as confidential shall not be disclosed until the Procurement Agent makes a written determination. The Procurement Agent shall review the

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statement and information with the Town Attorney and shall determine in writing whether the information shall be withheld. If the Town Attorney determines that it is proper to disclose the information, the Procurement Agent shall inform the Bidder in writing of such determination.

2.14 Bidder Licensing and Registration. Prior to the award of the Contract, the successful Bidder shall be registered with the Arizona Corporation Commission and authorized to do business in Arizona. Bidders shall provide license and certification information with the Bid, attached as Exhibit C and incorporated herein by reference. Upon the Town's request, corporations and limited liability companies shall provide Certificates of Good Standing from the Arizona Corporation Commission.

2.15 Bidder Qualifications.

A. Experience and References. Bidder must demonstrate successful completion of at least three similar projects within the past 60 months, one of which must have a dollar value of at least 75% of the total bid for this Project as set forth in the Price Sheet, attached as Exhibit B. Total Bid Price does not include any Town allowances identified. For the purpose of this Solicitation, "successful completion" means completion of a project within the established schedule and budget and "similar projects" resemble this Project in size, nature and scope. References for these three projects shall be listed on the sheet attached hereto as Exhibit D and incorporated herein by reference. *These references will be checked*, and it is Bidder's responsibility to ensure that all information is accurate and current. Bidder authorizes the Town's representative to verify all information from these references and releases all those concerned from any liability in connection with the information they provide.

B. Investigation. The Town's representative may conduct any investigation deemed necessary to determine the Bidder's ability to perform the Work in accordance with the Contract Documents. The three lowest Bidders may be requested to submit additional documentation within 72 hours (or as specified) to assist the Town in its evaluation.

2.16 Certification. By submitting a Bid, the Bidder certifies:

A. No Collusion. The submission of the Bid did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.

C. No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a Town employee, officer, agent or elected official in connection with the submitted Bid or a resultant Contract. In the event that the resultant Contract is canceled pursuant to Subsection 3.15(E) below, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

D. Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Contract.

E. No Signature/False Statement. The signature on the Bid Offer is genuine.

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Failure to sign the Bid Offer or signing it with a false statement, shall void the submitted Bid and any resulting Contract, and the Bidder may be debarred from further bidding in the Town.

2.17 Award of Contract.

A. Multiple Award. The Town may, at its sole discretion, accept Bidder's Offer as part of a Multiple Award.

B. Line Item Option. Unless the Bidder's Offer indicates otherwise, or unless specifically provided within the Contract, the Town reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the Town. The Town's flexibility with respect to the method of award also includes any items bid as alternates, which may be accepted or rejected, in whole or in part, at the Town's sole discretion.

C. Evaluation. The evaluation of this Bid will be based on, but not limited to, the following: (1) compliance with Scope of Work, (2) Price, including alternates selected by the City, if any, and taxes, but excluding "as-needed" services requested by the City and (3) Bidder qualifications to provide the Services/Materials.

D. Waiver; Rejection; Reissuance. Notwithstanding any other provision of this IFB, the Town expressly reserves the right to: (1) waive any immaterial defect or informality, (2) reject any or all Bids or portions thereof and (3) cancel or reissue an IFB.

E. Offer. A Bid is a binding offer to contract with the Town based upon the terms, conditions and specifications contained in this IFB and the Bidder's responsive Bid, unless any of the terms, conditions, or specifications are modified by a written addendum or Contract amendment. Bids become binding Contracts when the Acceptance of Offer and Notice of Award is executed in writing by the Town. Bidder Offers shall be valid and irrevocable for **90 Days** after the Bid Opening.

F. Protests. Any Bidder may protest this IFB, the proposed award of a Contract, or the actual award of a Contract. All protests will be considered in accordance with the Town Procurement Policy.

ARTICLE III – GENERAL TERMS AND CONDITIONS

3.1 Term. This Contract shall be effective from the date it is fully executed by the Town and remain in full force and effect for **30 days** unless terminated as otherwise provided herein.

3.2 Compensation. The Town shall pay the Contractor for Services completed and accepted by the Town at the rates set forth in the Price Sheet. The Contractor shall not commence any billable Work or provide any Services under this Contract until the Contractor receives an executed purchase order from the Town.

3.3 Payments. The Contractor will be paid on the basis of invoices submitted following acceptance of the Services/Materials. All invoices shall document and itemize all Services performed and Materials delivered in sufficient detail to justify payment and shall include the Work Order number authorizing the transaction and shall be delivered to the Town Accounts Payable address indicated on the face of the Work Order, unless otherwise specified. All transportation charges must be prepaid by the Contractor. If invoice is subject to a cash discount, the discount period will be calculated from the date of receipt of the claim or the Materials, whichever is later.

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3.4 Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Contract shall be the property of the Town. The Town may use such documents for other purposes without further compensation to the Contractor; however, any reuse without written verification or adaptation by Contractor for the specific purpose intended will be at the Town's sole risk and without liability or legal exposure to Contractor.

3.5 Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, Contractor shall notify the Town, in writing, describing the reasons a safety plan is unnecessary. The Town reserves the right to request a safety plan following such notification.

3.6 Contractor Personnel. Contractor shall provide experienced personnel, capable of and devoted to the successful performance of the Services under this Contract. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire Town residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Contract, key personnel will not be removed or replaced without prior written notice to the Town. The term "Key Personnel" means individuals who will be directly assigned to this Project and includes, but is not limited to, the owner, principals, project manager, project superintendent, scheduler, engineer and supervisory personnel. At least two of the Bidder's Key Personnel must have a minimum of three years' experience in similar projects (defined above) and the scheduler must have experience in employing scheduling techniques appropriate for this Project. Resumes of Key Personnel shall be submitted upon request by the Town's representative. If Key Personnel are not available to perform the Services for a continuous period exceeding 30 Days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

3.7 Inspection; Acceptance. All Work shall be subject to inspection and acceptance by the Town at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the Town.

3.8 Licenses. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The Town has no obligation to provide Contractor, its employees or Subcontractors any business registrations or licenses required to perform the specific Services set forth in this Contract.

3.9 Materials; Equipment. Contractor shall provide, pay for and insure under the requisite laws and regulations all labor, materials, equipment, tools, transportation and other facilities and services necessary for the proper execution and completion of the Services.

3.10 Performance Warranty. In addition to any specific obligations set forth in Exhibit A, Contractor warrants that the Services rendered will conform to the requirements of this Contract and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

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3.11 Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the Work or Services of the Contractor, its officers, employees, agents, or any tier of Subcontractor in the performance of this Contract. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

3.12 Changes; Cancellation. The Town reserves the right to cancel or make changes in the Services or Materials to be furnished by the Contractor within a reasonable period of time after issuance of Work Orders. If such changes cause an increase or decrease in the amount due under the Work Order, or in the time required for Contractor's performance, an acceptable adjustment shall be made and the Work Order shall be modified in writing accordingly. Any agreement for adjustment must be asserted in writing within 10 Days from when the change is ordered. Should a Work Order be canceled, the Town agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Work Order. The Town will not reimburse the Contractor for any costs incurred after receipt of a notice of cancellation from the Town, or for lost profits, shipment of product or costs incurred prior to issuance of a Work Order.

3.13 Insurance.

A. General.

1. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Contract at the Town's option.

2. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Contractor. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Contract but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Contract or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

3. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Contract, the Town, its agents, representatives, officers, directors, officials and employees as

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Additional Named Insured as specified under the respective coverage sections of this Contract.

4. Coverage Term. All insurance required herein shall be maintained in full force and effect until all Work or Services required to be performed under the terms of this Contract are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Contract.

5. Primary Insurance. Contractor's insurance shall be primary insurance with respect to performance of this Contract and in the protection of the Town as an Additional Insured.

6. Claims Made. In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

7. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the Work or Services of Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

8. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

9. Use of Subcontractors. If any Work under this Contract is subcontracted in any way, Contractor shall execute written agreement(s) with its Subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the Town and Contractor. Contractor shall be responsible for executing any agreements with its Subcontractor and obtaining certificates of insurance verifying the insurance requirements.

10. Evidence of Insurance. Prior to commencing any Work or Services under this Contract, Contractor will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Contract, issued by Contractor's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Contract and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Contract. The Town shall reasonably rely upon the certificates of insurance and

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declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Contract. If any of the policies required by this Contract expire during the life of this Contract, it shall be Contractor's responsibility to forward renewal certificates and declaration page(s) to the Town 30 Days prior to the expiration date. All certificates of insurance and declarations required by this Contract shall be identified by referencing this Contract. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without a reference to this Contract. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Contract will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

a. The Town, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(i) Commercial General Liability - Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 04 13 or equivalent.

(ii) Auto Liability - Under ISO Form CA 20 48 or equivalent.

(iii) Excess Liability - Follow Form to underlying insurance.

b. Contractor's insurance shall be primary insurance with respect to performance of the Contract.

c. All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of Work or Services performed by Contractor under this Contract.

ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11. Endorsements. Contractor shall provide the Town with the necessary endorsements to ensure Town is provided the insurance coverage set forth in this Subsection.

B. Required Insurance Coverage.

1. Commercial General Liability. Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy

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will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Contract, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 04 13, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this Subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

2. Vehicle Liability. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's Work or Services under this Contract. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Contract, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this Subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

3. Professional Liability. If this Contract is the subject of any professional Services or Work, or if the Contractor engages in any professional Services or Work in any way related to performing the Work under this Contract, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

4. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of Work or Services under this Contract and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

C. Cancellation and Expiration Notice. Contractor shall provide at least 30 Days' prior written notice to the Town before insurance required herein expires, is canceled, or is materially changed.

3.14 Applicable Law; Venue. This Contract shall be governed by the laws of the State of Arizona, and suit pertaining to this Contract may be brought only in courts in Yavapai County, Arizona.

3.15 Termination; Cancellation. The Town may, by written notice to Contractor as set

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forth in this Section, terminate this Contract in whole or in part.

A. For Town's Convenience. This Contract is for the convenience of the Town and, as such, may be terminated without cause after receipt by Contractor of written notice by the Town. Upon termination for convenience, Contractor shall be paid for all undisputed Services performed and Materials delivered to the termination date.

B. For Cause. If either party fails to perform any obligation pursuant to this Contract and such party fails to cure its nonperformance within 30 Days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Contract immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 Days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (1) provides written notice to the non-defaulting party and (2) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 Days. In the event of such termination for cause, payment shall be made by the Town to the Contractor for the undisputed portion of its fee due as of the termination date.

C. Due to Work Stoppage. This Contract may be terminated by the Town upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. If Contractor abandons the Services without the consent of the Town, Contractor shall be liable for all actual, incidental and consequential damages arising from or related to said abandonment, including, but not limited to: (1) the difference between the cost of a replacement Contractor to complete the Services and the contract price for Contractor under this Contract; and (2) any additional charges, costs, fees or expenses for labor, materials or professional services incurred by the Town as a result of delays caused by abandonment of the Services by Contractor. The Town shall use its best efforts to replace Contractor within a reasonable time.

D. Conflict of Interest. This Contract is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Contract without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Contract on behalf of the Town or any of its departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter of the Contract.

E. Gratuities. The Town may, by written notice to the Contractor, cancel this Contract if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the Town for the purpose of securing this Contract. In the event this Contract is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

F. Contract Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Contract as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations

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under this Contract are current expenses subject to the “budget law” and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Contract obligations, this Contract shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Contract. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town’s obligations set forth in this Contract in any budget in any fiscal year other than the fiscal year in which this Contract is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Contract. The Town shall keep Contractor informed as to the availability of funds for this Contract. The obligation of the Town to make any payment pursuant to this Contract is not a general obligation or indebtedness of the Town. Contractor hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town’s termination of this Contract pursuant to this Section.

G. Obligations Upon Receipt of Termination Notice. Upon receipt of a notice of termination as set forth above, Contractor shall (1) immediately discontinue all Services affected (unless the notice directs otherwise), and (2) deliver to the Town copies of all data, reports, calculations, drawings, specifications and estimates entirely or partially completed, together with all unused materials supplied by the Town, related to the Services including any completed divisible part of the Services which can be deemed to stand alone (the completed divisible parts of the Services will be determined by both parties at the time of termination). Such termination shall not relieve Contractor of liability for errors and omissions. Any use of incomplete documents for the Services or for any other project without the specific written authorization by Contractor will be without liability or legal exposure to Contractor. Contractor shall appraise the Work it has completed and submit the appraisal to the Town for evaluation.

3.16 Suspension of Work.

A. Order to Suspend. The Town may, for its convenience, order the Contractor, in writing, to suspend all or any part of the Services for such period of time as it may determine to be appropriate.

B. Adjustment to Contract Sum. If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of the Town in the administration of this Contract, or by its failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Contract necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay (1) to the extent that performance was suspended or delayed for any other cause, including the fault or negligence of the Contractor, or (2) for which a change order is executed.

3.17 Miscellaneous.

A. Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor acknowledges and agrees that all Services and Materials provided under this Contract are being provided as an independent

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contractor, not as an employee or agent of the Town. Contractor, its employees and Subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual Work of Contractor, its employees or Subcontractors. The Contractor, and not the Town, shall determine the time of its performance of the Services provided under this Contract so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2.1 above and in Exhibit A. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Contractor do not intend to nor will they combine business operations under this Contract.

B. Laws and Regulations. The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Contract ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services or Materials including, but not limited to, the following: (1) existing and future Town and County ordinances and regulations; (2) existing and future state and federal laws; and (3) existing and future OSHA standards.

C. Contract Amendments. This Contract may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Contractor; provided, however, that Change Orders may be issued and approved administratively by the Town when such changes do not alter the Contract Price.

D. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Contract will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract will promptly be physically amended to make such insertion or correction.

E. Severability. The provisions of this Contract are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Contract which may remain in effect without the invalid provision or application.

F. Entire Agreement; Interpretation; Parol Evidence. This Contract represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by this Contract. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Contract. This Contract shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Contract. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Contract.

G. Assignment; Delegation. No right or interest in this Contract shall be assigned or delegated by Contractor without prior, written permission of the Town, signed by the Town Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Contract by Contractor.

H. Subcontracts. No subcontract shall be entered into by the Contractor with

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any other party to furnish any of the Services or Materials specified herein without the prior, written approval of the Town. The Contractor is responsible for performance under this Contract whether or not Subcontractors are used.

I. Rights and Remedies. No provision in this Contract shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Contract. The failure of the Town to insist upon the strict performance of any term or condition of this Contract or to exercise or delay the exercise of any right or remedy provided in this Contract, or by law, or the Town's acceptance of and payment for Services, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Contract.

J. Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

K. Liens. All Services or Materials shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

L. Offset.

1. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Contractor any amounts Contractor owes to the Town for damages that have been reduced to a judgment resulting from breach or deficiencies in performance or breach of any obligation under this Contract.

2. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Contractor any amounts Contractor owes to the Town for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

M. Notices and Requests. Any notice or other communication required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if (1) delivered to the party at the address set forth below, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (3) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323
Attn: Cindy Blackmore, Town Manager

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire

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If to Contractor:

Traffic Safety, Inc.
8901 E. Laredo Dr.
Prescott Valley, AZ 86314
 Attn: Russel Hardy

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Subsection. Notices shall be deemed received (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (3) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

N. Overcharges by Antitrust Violations. The Town maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the Town any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

O. Force Majeure. Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party, in accordance with Subsection 3.17(M), of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract. Force majeure shall not include the following occurrences:

1. Late Delivery. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies or similar occurrences.

2. Late Performance. Late performance by a Subcontractor, unless the delay arises out of a force majeure occurrence in accordance with this Subsection 3.17(O). Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the Work by force majeure, then the delayed party shall notify the other party in accordance with Subsection 3.17(M) and shall make a specific reference to this Section, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of Substantial Completion or Final Completion shall be extended by written Contract

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amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

P. Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Contract shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Contract. Persons requesting such information should be referred to the Town. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Contract.

Q. Records and Audit Rights. To ensure that the Contractor and its Subcontractors are complying with the warranty under Subsection 3.17(R) below, Contractor's and its Subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of any Contractor and its Subcontractors' employees who perform any Work or Services pursuant to this Contract (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (1) evaluation and verification of any invoices, payments or claims based on Contractor's and its Subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of Work under this Contract and (2) evaluation of the Contractor's and its Subcontractors' compliance with the Arizona employer sanctions laws referenced in Subsection 3.17 (R) below. To the extent necessary for the Town to audit Records as set forth in this Subsection, Contractor and its Subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its Subcontractors' facilities, from the effective date of this Contract for the duration of the Work and until three years after the date of final payment by the Town to Contractor pursuant to this Contract. Contractor and its Subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this Subsection. The Town shall give Contractor or its Subcontractors reasonable advance notice of intended audits. Contractor shall require its Subcontractors to comply with the provisions of this Subsection by insertion of the requirements hereof in any subcontract pursuant to this Contract.

R. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its Subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its Subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by the Town.

S. Israel. To the extent ARIZ. REV. STAT. § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of this Contract to not engage in, a "boycott" of goods or services from Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

T. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Contract, the IFB, the Scope of Work, any Town-approved Purchase

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Order, the Price Sheet, any Town-approved Work Orders, invoices and the Contractor's response to the IFB, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2.1 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Contract (collectively, the "Unauthorized Conditions"), other than the Town's project-specific quantities, configurations or delivery dates, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Contract shall not alter or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Contract. If the Contract is renewed pursuant to Subsection 3.1(B) above and such renewal includes any conflicting terms, other than price, those terms will be null and void.

U. Time is of the Essence. The timely completion of the Project is of critical importance to the economic circumstances of the Town.

V. Meaning of Terms. References made in the singular shall include the plural and the masculine shall include the feminine or the neuter.

W. Non-Exclusive Contract. This Contract is entered into with the understanding and agreement that it is for the sole convenience of the Town of Chino Valley. The Town reserves the right to obtain like goods and Services from another source when necessary.

X. Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the Town, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Contract in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Contract shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The Town assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Contract. The Town shall not be responsible for any disputes arising out of transactions made by others.

Y. Forced Labor of Ethnic Uyghurs. To the extent applicable under Ariz. Rev. Stat. § 35-394, the Contractor warrants and certifies that it does not currently, and agrees for the duration of this Contract that it will not use the forced labor, any goods or services produced by the forced labor, or any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware that it is not in compliance with this paragraph, it shall notify the Town of the noncompliance within five business days of becoming aware of it. If the Contractor fails to provide a written certification that it has remedied the noncompliance within 180 days after that, this Contract shall terminate unless the termination date of this Contract occurs before the end of the remedy, in which case this Contract terminates on the contract termination date.

EXHIBIT A
TO
INVITATION FOR BIDS
FOR
2023-003 ROADWAY PAVEMENT MARKING PROJECT

[Scope of Work and Specifications]

See following pages.

SCOPE OF WORK

2023-003 ROADWAY PAVEMENT MARKING PROJECT

1. Location:

- a. The Scope of Work includes the roadways and intersections shown on the map attached hereto as Attachment 1 and incorporated herein by reference.
- b. The Scope of Work does not include any Work along State Route 89 (SR89) or at any intersection along SR89.

2. Scope of Work:

a. Roadway Pavement Markings

i. Paint

1. Furnish and install double yellow reflectorized centerline roadway markings per City of Prescott Standard Details 106P-1 and 632Q, each of which is attached hereto as Attachment 2 and Attachment 3, respectively, and incorporated herein by reference.
2. Striping shall conform to the most recent edition of the Manual on Uniform Traffic Control Devices (MUTCD), Chapter 3B, with regard to size, color, reflectivity, and placement unless otherwise specified herein.
3. Paint application shall conform to Arizona Department of Transportation (ADOT) specification 708.
4. Double yellow centerline shall be reflectorized paint 25 mils thick and conform to Quad City Standard Detail 632Q.
5. A list of approved manufacturers and distributors of Type I and II waterborne traffic paint is shown on ADOT's Approved Product List. The most recent version is available on the ADOT Research Center Product Evaluation Program Website.

ii. Thermoplastic

1. Furnish and install reflectorized thermoplastic 18-inch white stop bars at roadway intersections per City of Prescott Standard Detail 106P-1.
2. All thermoplastic applications shall conform to ADOT specification 704. Transverse markings, stop bars, shall be 90-mil thick.
3. Stop bars shall be reflectorized 90-mil thermoplastic per Quad City Standard Detail 632Q.
4. Stop bars shall be placed per City of Prescott Standard Detail 632Q.

5. A list of approved manufacturers and distributors of Type I, II, III, IV and IV preformed pavement marking materials is shown on ADOT's Approved Product List. The most recent version is available on the ADOT Research Center Product Evaluation Program Website.

- 6.

b. Traffic Control

- i. The Contractor shall be responsible for all traffic control.
- ii. The Contractor shall submit traffic control plans, as necessary, and determined by ADOT, Yavapai County Department of Transportation (Yavapai DOT), and the Town of Chino Valley, for review and authorization prior to the start of Work.
- iii. All traffic control that impacts or encroaches into State Route 89 right-of-way shall be submitted to ADOT for review and authorization. When applicable, the Contractor shall submit and receive an ADOT-authorized Traffic Control Plan (TCP) prior to beginning Work. Copies of all ADOT-authorized traffic control plans shall be provided to the Town of Chino Valley Public Works Engineering a minimum of five working days prior to the start of Work.
- iv. All traffic control that impacts or encroaches into Reed Road right-of-way shall be submitted to Yavapai DOT for review and authorization. When applicable, the Contractor shall submit and receive a Yavapai DOT-authorized Traffic Control Plan (TCP) prior to beginning Work. Copies of all Yavapai DOT-authorized traffic control plans shall be provided to the Town of Chino Valley Public Works Engineering a minimum of five working days prior to the start of Work.
- v. For this Contract, traffic control shall include all motor vehicles, bicycles, and pedestrians along State, County, and Town roadways, bike lanes, paths, and sidewalks.
- vi. All traffic shall be regulated in accordance with the most recent edition of MUTCD, any Special Provisions included herein, and as required by ADOT.
- vii. The Contractor shall use the appropriate traffic barricading as set for in the MUTCD and shall comply with the safety standards set forth in American National Standard Institute (ANSI) 133.1 for all Work performed along roadways and within rights-of-way.
- viii. The Contractor shall designate an American Traffic Safety Services Association (ATSSA) certified individual who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring, and altering traffic control measures as necessary to ensure that traffic is carried through the Work areas in an effective manner and that motorists, bicycles, pedestrians, and workers are protected from hazards and accidents.
- ix. It may be necessary to alter traffic control as authorized by ADOT. Alterations to traffic control shall be in accordance with the latest edition of Part VI of the MUTCD; "Traffic Control for Streets and Highway Construction and Maintenance Operations," the latest edition of the ADOT Traffic Control Manual. The most restrictive manual shall apply.

- x. The Contractor shall wear reflectorized vests that meet ANSI standards at all times.
 - xi. No additional payment shall be made for traffic control required as part of this Contract. The cost for traffic control shall be included as part of the Bid.
- c. Work Permits
- i. For any Work that impacts or encroaches on SR89 right-of-way, the Contractor shall coordinate with ADOT for a permit to work in the SR89 right-of-way each time Work is scheduled.
 - ii. The Contractor shall, for any Work that impacts or encroaches into Reed Road, coordinate with Yavapai DOT for a permit to work in the Reed Road right-of-way each time Work is scheduled.
- d. Contract Quantities
- i. Project drawings and this Scope of Work include dimensions and quantities for the convenience of Bidders. The Project's estimated quantities include 245,690 linear feet of painted double yellow reflectorized centerline markings or 491,380 linear feet of 4-inch equivalent single yellow line, and 72 reflectorized thermoplastic 18-inch white stop bars at roadway intersections. The Town provides no guarantee of the accuracy of this information. Bidders are responsible for verifying all dimensions and quantities of materials required.
- e. Instructions and Expectations:
- i. Due to the geographical scope of the Project, the Town strongly encourages Bidders to visit each of the Work areas indicated on the map in Attachment 1. Each Bidder is responsible for examining Work areas and becoming familiar with their general conditions, improvements, and amenities. Bidders shall be deemed to have accepted such conditions.
 - ii. The Contractor is responsible for properly disposing of all Project waste. No Town facility refuse container shall be used to dispose of waste or recycled materials.
 - iii. Bidders may submit multiple Bids, on separate Bid sheets, for the Town's consideration.
 - iv. The Contractor shall be responsible for providing all necessary Project and worker facilities, including a waste disposal container, restrooms, wash stations, and drinking water.
 - v. The Contractor shall protect existing finishes and conditions of areas surrounding Work from paint overspray or damage. The Contractor shall be responsible for site cleanliness and for repairing or replacing Project related damage to existing finishes.
 - vi. The Contractor shall perform the Work in a safe manner and follow all appropriate OSHA requirements.

- vii. The Contractor shall be responsible for spot layout of centerline striping and stop bars for the entire Project and shall contact the Town prior to installing pavement markings. Any striping or stop bars installed before layout approval shall be subject to removal and reinstallation at the Contractor's expense.
- viii. The Contractor shall be responsible for properly preparing roadway surfaces for the application of paint and thermoplastic, including sweeping.
- ix. The Project schedule shall include any official Town business day, Monday through Thursday, 6:30 a. m. to 5:00 p. m., and shall NOT include evenings, weekends, and official Town holidays. Work must continue on consecutive days, not counting weekends or holidays, until complete. The Town may consider alternate Work schedules, including performing Work on Friday(s), if it would complete the Work sooner and if the alternate schedule is advantageous to the Town. The Contractor is responsible for submitting alternate Work schedule requests to the Town.

f. Measure and Pay

i. Method of Measure

1. Thermoplastic Pavement Markings

- a. Thermoplastic pavement markings shall be measured per section 704.4 of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction (2021).
- b. Thermoplastic pavement transverse markings (i.e., stop bars) will be measured by the linear foot along the center line of the pavement marking line and will be based on a 4-inch-wide line. Measurement for striping with a plan width greater or less than the basic 4 inches as shown on the plans or directed by the Engineer will be made by the same method and then adjusted by the following factor:

$$\frac{\text{Plan Width of Striping (inches)} \times \text{Linear Feet}}{4 \text{ (inches)}}$$

Stop bars will be measured for centerline length and adjusted for widths other than 4 inches, as defined above. No separate measurement or payment will be made for cleaning and preparing the pavement surface, including abrasive sweeping and high-pressure air spray, and for disposal of excess materials, cleaning fluids, and empty material containers, the cost being considered as included in contract items. Removal of curing compound from new Portland cement concrete pavement and the application of primer-sealer, will be measured along the centerline of the line of curing compound being removed or the line of primer-sealer being applied or by the unit each for symbols and legends, as appropriate. Measurement of a line of removal of curing compound or a line of application of primer-sealer will be based on a 4-inch-wide line, and shall be measured by the linear foot, and in accordance with the items of Work established in the Bid schedule. Measurement for lengths of removal of curing compound or application of primer-sealer with a plan width greater than 4 inches as shown on the plans or directed by the Engineer will be made by the

same method and then adjusted by the following factor:

$$\frac{\text{Plan Width (inches)} \times \text{Linear Feet}}{4 \text{ (inches)}}$$

The plan width will include an extra 4 inches – 2 inches on each side – beyond the plan width of pavement marking and will be based on a continuous length of pavement marking lines unless indicated on the Project plans.

2. Pavement Marking Paint

- a. Pavement marking paint shall be measured per section 704 of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction (2021).
- b. Pavement marking paint will be measured by the linear foot along the centerline of the pavement stripe. Length of pavement markings will be based on a 4-inch-wide stripe. Measurement for striping with a plan width greater or less than the basic 4 inches as shown on the plans or directed by the Engineer will be made by the following method:

$$\frac{\text{Plan Width of Striping (inches)} \times \text{Linear Feet}}{4 \text{ (inches)}}$$

ii. Basis of Pay

1. Thermoplastic Pavement Markings

- a. Thermoplastic pavement markings shall be paid per section 704.5 of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction (2021).
- b. The accepted quantities of thermoplastic pavement markings of the type specified in the bidding schedule, measured as provided above, will be paid for at the contract unit price, complete in place, including pavement surface preparation and glass beads. The accepted quantities for removal of curing compound from new Portland cement concrete pavement and the application of primer sealer, measured as provided above, will be paid for at the respective contract unit prices, under the items of Work established in the Bid schedule.

2. Pavement Marking Paint

- a. Pavement marking paint shall be paid per section 704 of the ADOT Standard Specifications for Road and Bridge Construction (2021).
- b. Pavement striping of the type specified, measured as provided above, will be paid for at the contract price per linear foot for the total length of painted line applied to the nearest foot, which price shall be full compensation for the Work, complete in place, including glass beads, as described and specified herein and on the Project plans.

Attachment 1
to the
Scope of Work

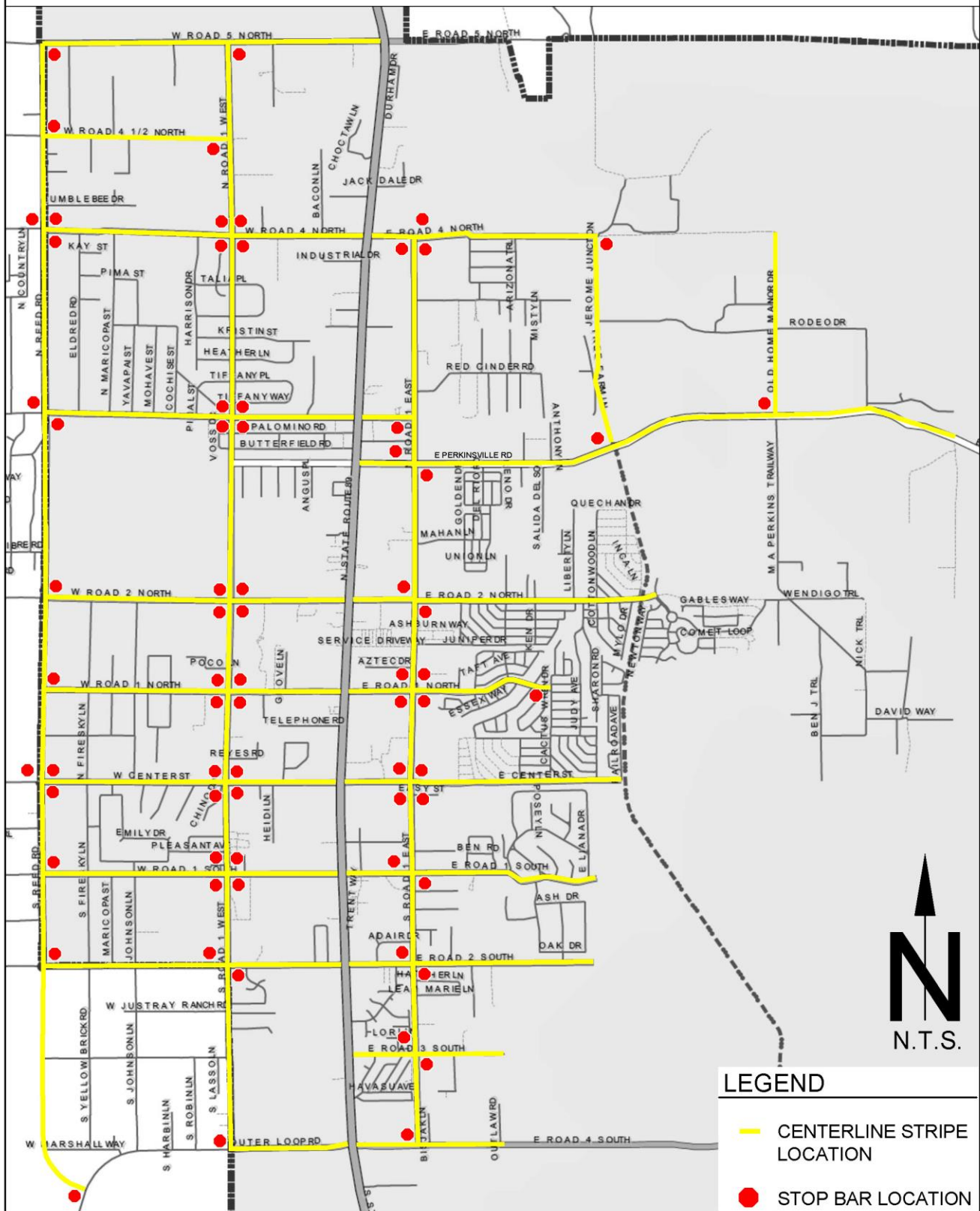
[Map of Roadways and Intersections]

See following page.

2023-0003

TOWN OF CHINO VALLEY ROAD STRIPING PROJECT

01/23/23



Attachment 2
to the
Scope of Work

[City of Prescott Standard Detail 106P-1]

See following page.

4841716.1

1. THE CONTRACTOR SHALL SPOT LAYOUT THE ENTIRE PROJECT AND CONTACT THE CITY INSPECTOR TO MAKE ARRANGEMENTS FOR INSPECTION PRIOR TO INSTALLING TRAFFIC SIGNS OR PAVEMENT MARKINGS. ANY SIGNING OR STRIPING INSTALLED BEFORE LAYOUT APPROVAL SHALL BE SUBJECT TO REMOVAL AND REINSTALLATION AT THE CONTRACTOR'S EXPENSE.
2. TRAFFIC SIGN DIMENSIONS, COLORS AND LETTERING SHALL CONFORM TO THE LATEST MUTCD SPECIFICATIONS. TRAFFIC SIGN SIZE SHALL BE STANDARD UNLESS OTHERWISE SPECIFIED ON THE PLANS.
3. SIGN LOCATION SHALL BE COORDINATED WITH LANDSCAPING PLANS TO ENSURE SIGN VISIBILITY PER AASHTO STANDARDS.
4. ALL R1-1 "STOP" SIGNS AND PEDESTRIAN WARNING SIGNS SHALL BE RETRO-REFLECTIVE WITH SHEETING MATERIAL TO BE DIAMOND VIP GRADE, MEETING OR EXCEEDING ASTM 4956-04.
5. ALL OTHER SIGNS ARE TO BE RETRO-REFLECTIVE WITH SHEETING MATERIAL TO BE HIGH INTENSITY PRISMATIC MEETING OR EXCEEDING ASTM 4956-04.
6. SIGN BLANKS SHALL BE 5052-H38 ALLOY TREATED ALUMINUM WITH ALODINE 1200 CONVERSION COATING, 0.080" THICK WITH ROUNDED CORNERS.
7. SIGNS SHALL BE MOUNTED ON STREET LIGHT POLES WHENEVER FEASIBLE.
8. STRIPING SHALL CONFORM TO THE MOST RECENT EDITION OF THE MUTCD WITH REGARD TO SIZE, COLOR, REFLECTIVITY AND PLACEMENT UNLESS OTHERWISE SPECIFIED ON THE PLANS.
9. ALL THERMOPLASTIC APPLICATIONS SHALL CONFORM TO ADOT SPECIFICATION 704. TRANSVERSE MARKINGS, SYMBOLS AND LEGENDS SHALL BE 90 MIL (0.090 INCH) THICK, LONGITUDINAL MARKINGS SHALL BE 60 MIL (0.060 INCH) THICK ALKYD EXTRUDED THERMOPLASTIC.
10. ALL PAINT APPLICATION SHALL CONFORM TO ADOT SPECIFICATION 708.
11. ALL CONFLICTING STRIPING, PAVEMENT MARKINGS, AND CURB PAINT SHALL BE REMOVED BY WET SANDBLASTING OR OTHER APPROVED METHOD PRIOR TO THE INSTALLATION OF NEW STRIPING. SLURRY OR PAINT SHALL NOT BE USED TO COVER EXISTING PAINT. PAVEMENT THAT IS DAMAGED DUE TO THE REMOVAL OF MARKERS OR STRIPING SHALL BE REPAIRED TO THE SATISFACTION OF THE CITY ENGINEER OR HIS DESIGNEE.

COP STANDARD DETAIL

SIGNING AND
STRIPING NOTES

 CITY ENGINEER
REVISED:
07/16DETAIL No.
106P-1

Attachment 3
to the
Scope of Work

[City of Prescott Standard Detail 632Q]

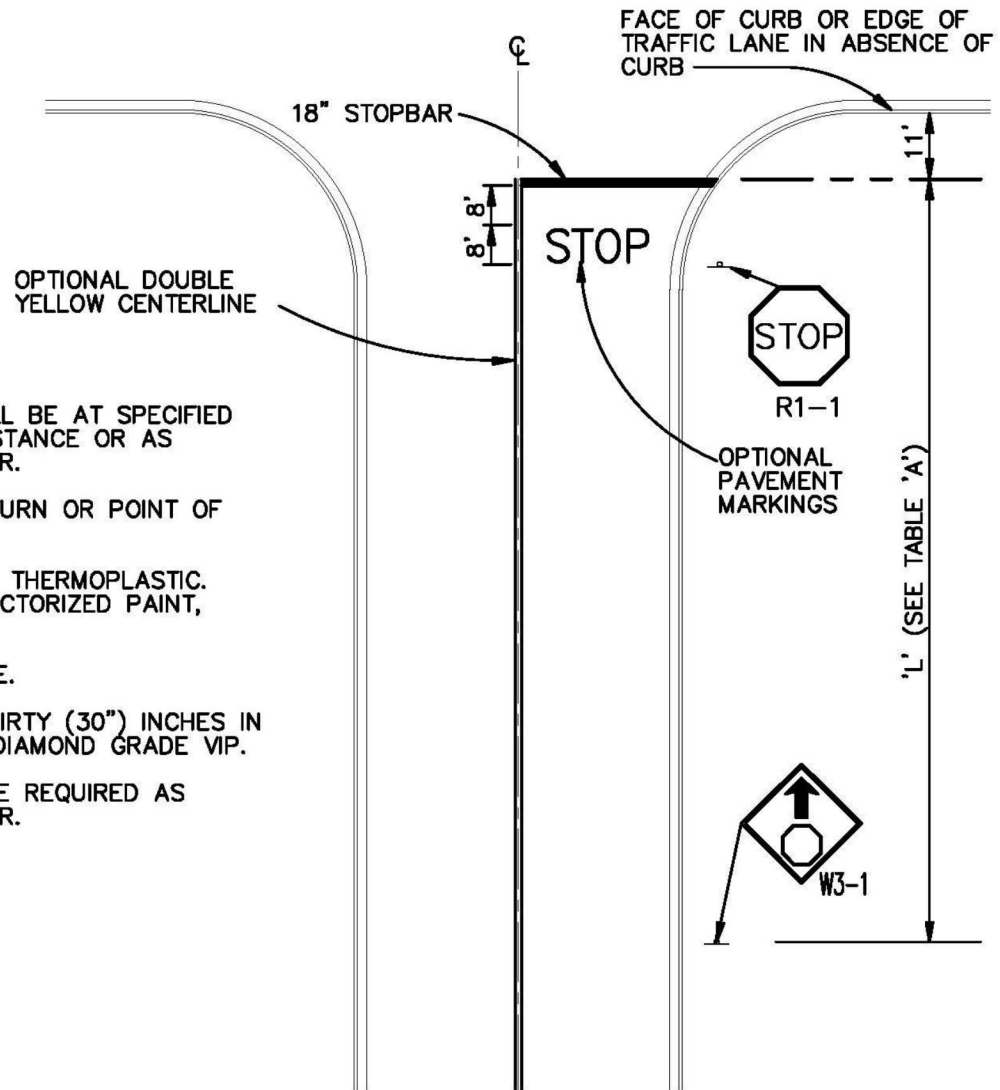
See following page.

4841716.1

TABLE 'A'				
'L' VALUES (FT.)				
MPH	DOWNGRADES			
	0%	3%	6%	9%
25 OR NOT POSTED	250	260	270	290
30	305	315	335	355
35	360	380	400	430

NOTES:

1. THE USE OF W3-1 'STOP AHEAD' SIGNS SHALL BE AT SPECIFIED LOCATIONS DEMONSTRATING LIMITED SIGHT DISTANCE OR AS DIRECTED BY THE AGENCY'S TRAFFIC ENGINEER.
2. STOP SIGN NORMALLY LOCATED AT CURB RETURN OR POINT OF OPTIMUM VISIBILITY.
3. STOP BARS SHALL BE REFLECTORIZED 90 MIL THERMOPLASTIC. DOUBLE YELLOW CENTERLINE SHALL BE REFLECTORIZED PAINT, 24-28 MIL.
4. CENTER PAVEMENT MARKINGS IN TRAVEL LANE.
5. R1-1 STOP SIGN SHALL BE A MINIMUM OF THIRTY (30") INCHES IN WIDTH. ALL SIGN SHEETING MATERIAL TO BE DIAMOND GRADE VIP.
6. OPTIONAL "STOP" PAVEMENT MARKING MAY BE REQUIRED AS DIRECTED BY THE AGENCY'S TRAFFIC ENGINEER.



QUAD CITY STANDARD DETAIL

STOP MARKINGS

REVISED: 07/16
DETAIL No. 632Q

EXHIBIT B
TO
INVITATION FOR BIDS
FOR
2023-003 ROADWAY PAVEMENT MARKING PROJECT

[Price Sheet]

See following page.

PRICE SHEET (REVISED)

NOTE: All pricing blanks must be filled in. Incomplete or unfilled spaces in the Price Sheet shall be deemed as a NO BID entry for that item.

Item	Description	Estimated Qty.	Unit	Unit Price	Extended Price
1	Painted Double Yellow Reflectorized Centerline Pavement Markings – ADOT Section 708 Type II paint, 25-mil minimum thickness, with Type III Reflective Beads	491,380	LF	\$ 0.13	63,879.40
2	72 18" White Reflectorized 90-mil Thermoplastic Stop Bars – ADOT Section 704, 90-mil minimum thickness	5,184	LF	\$ 0.60	\$ 3,110.40
3	Contingency	1	LS	\$10,000	\$10,000

TOTAL BID ITEMS IN NUMBERS: (\$) 76,989.80

In Words: Seventy Six Thousand Nine Hundred Eighty Nine and ⁸⁰/₁₀₀ Dollars

Bidder's Acknowledgement Russell H. King **Date** 8/11/2023

*All bids are presumed to include all applicable taxes.

** The contingency bid item is provided for the purpose of encumbering funds to cover the costs of possible contract amendment work. The amount of the contingency item is determined by the engineer and is not subject to individual bid pricing. All bidders shall incorporate the amount pre-entered in the bid proposal and shall include the same in the total amount bid for this project. This contingency item provides an estimated funding to cover unforeseen changes that may be encountered, and corresponding extra work needed to complete the contract per plan. It shall be understood that this contingency item is an estimate only and is based on contract amendment history of similar projects. It shall not be utilized without approval by the Town. It is further understood that authorized extra work, if any, may be less than the contingency item. The contractor, by submittal of his bid, acknowledges that the total bid and individual bid items were prepared without anticipation of use of the contingency.

ADDITIONAL INFORMATION TO BE SUPPLIED

7/31/23

EXHIBIT C
TO
INVITATION FOR BIDS
FOR
2023-003 ROADWAY PAVEMENT MARKING PROJECT

[Licenses; Certifications; DBE/WBE Status]

See following page.

LICENSE; CERTIFICATIONS; DBE/WBE STATUS

- **Attach a copy of your Contractor's License and applicable certifications to your bid submittal.**
- **Attach a copy of your Business License* to your bid submittal.**

* Business License must be a current Arizona Transaction Privilege (Sales) Tax License reflecting Town as a reporting jurisdiction or current Town Business License.

Has your firm been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? Yes _____, No X_____.

If yes, please provide details and documentation of the certification.

IMPORTANT NOTICE

YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY IN WRITING WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS IN WRITING WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY [SEE A.R.S. § 32-1151.01]
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY, SUCH AS ANY CHANGE OF THE OWNERSHIP IN A SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. [SEE A.R.S. § 32-1124(B)(F) § RULE R-4-9-110]

Traffic Safety Incorporated

8901 E Laredo Dr
Prescott Valley, AZ 86314-9135**THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY**LICENSE EFFECTIVE THROUGH **May 31, 2024**
STATE OF ARIZONA**Registrar of Contractors** CERTIFIES THAT

Traffic Safety Incorporated

CONTRACTORS LICENSE NO ROC 114648 CLASS KE

General Dual
As Restricted by the RegistrarTHIS CARD MUST BE
PRESENTED UPON DEMAND
JEFF FLEETHAM DIRECTOR

ARIZONA DEPARTMENT OF REVENUE
ATTN: Customer Care and Outreach
PO BOX 29032
Phoenix, AZ 85038-9032



ARIZONA DEPARTMENT OF REVENUE TRANSACTION PRIVILEGE TAX LICENSE NOT TRANSFERABLE

The licensee listed below is licensed to conduct business upon the condition that taxes are paid to Arizona Department of Revenue as required under provisions of A.R.S. Title 42, Chapter 5, Article 1.

2023

ISSUED TO: TRAFFIC SAFETY INCORPORATED
8901 E LAREDO DR
PRESCOTT VALLEY AZ 86314-9135

ALL communications and
reports MUST REFER to
this LICENSE NO.

► LICENSE: 13034136
START DATE: 04/01/1996
ISSUED: 11/18/2022
EXPIRES: 12/31/2023

LOCATION: CODE 001
TRAFFIC SAFETY INCORPORATED
8901 E. LAREDO DR.
PRESCOTT VALLEY, AZ 86314
2200064496345

BUSINESS CODE

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

315 - MRRA AMOUNT

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

315 - MRRA AMOUNT

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

315 - MRRA AMOUNT

015 - CONTRACTING - PRIME

315 - MRRA AMOUNT

015 - CONTRACTING - PRIME

015 - CONTRACTING - PRIME

017 - RETAIL

215 - PRE-6/2010 CONTRACTING

315 - MRRA AMOUNT

REGION

COM - NAVAJO (COCONINO)

YAW - YAVAPAI APACHE
(YAVAPAI)

YAX - YAVAPAI-PRESCOTT
(YAVAPAI)

YAX - YAVAPAI-PRESCOTT
(YAVAPAI)

APA - APACHE

COC - COCONINO

COC - COCONINO

COH - COCHISE

GLA - GILA

GRA - GRAHAM

MAR - MARICOPA

MOH - MOHAVE

MOH - MOHAVE

NAV - NAVAJO

NAV - NAVAJO

PNL - PINAL

YAV - YAVAPAI

YAV - YAVAPAI

YAV - YAVAPAI

YAV - YAVAPAI

JURISDICTION

RESERVATION

RESERVATION

RESERVATION

RESERVATION

COUNTY

COUNTY

COUNTY

COUNTY

COUNTY

COUNTY

COUNTY

COUNTY

COUNTY

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COUNTY

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COUNTY

COUNTY

COUNTY

This License is issued to the business named above for the address shown. Licenses, by law, cannot be transferred from one person to another, nor can they be transferred from one location to another. Arizona law requires licensees to notify the Department of Revenue if there is a change in business name, trade name, location, mailing address, or ownership. In addition, when the business ceases to operate or the business location changes and a new license is issued, this license must be returned to the Arizona Department of Revenue. According to R15-5-2201, license must be displayed in a conspicuous place.

LICENSE: 13034136

BUSINESS CODE	REGION	JURISDICTION
015 - CONTRACTING - PRIME	YMA - YUMA	COUNTY
015 - CONTRACTING - PRIME	BH - BULLHEAD CITY	CITY
315 - MRRA AMOUNT	BH - BULLHEAD CITY	CITY
015 - CONTRACTING - PRIME	CC - COLORADO CITY	CITY
015 - CONTRACTING - PRIME	CD - CLARKDALE	CITY
315 - MRRA AMOUNT	CD - CLARKDALE	CITY
015 - CONTRACTING - PRIME	CE - CAMP VERDE	CITY
315 - MRRA AMOUNT	CE - CAMP VERDE	CITY
015 - CONTRACTING - PRIME	CG - CASA GRANDE	CITY
015 - CONTRACTING - PRIME	CV - CHINO VALLEY	CITY
017 - RETAIL	CV - CHINO VALLEY	CITY
315 - MRRA AMOUNT	CV - CHINO VALLEY	CITY
015 - CONTRACTING - PRIME	CW - COTTONWOOD	CITY
017 - RETAIL	CW - COTTONWOOD	CITY
315 - MRRA AMOUNT	CW - COTTONWOOD	CITY
015 - CONTRACTING - PRIME	DH - DEWEY-HUMBOLDT	CITY
017 - RETAIL	DH - DEWEY-HUMBOLDT	CITY
315 - MRRA AMOUNT	DH - DEWEY-HUMBOLDT	CITY
015 - CONTRACTING - PRIME	EL - ELOY	CITY
015 - CONTRACTING - PRIME	FS - FLAGSTAFF	CITY
029 - USE TAX	FS - FLAGSTAFF	CITY
315 - MRRA AMOUNT	FS - FLAGSTAFF	CITY
015 - CONTRACTING - PRIME	GB - GILBERT	CITY
015 - CONTRACTING - PRIME	HB - HOLBROOK	CITY
015 - CONTRACTING - PRIME	JO - JEROME	CITY
011 - RESTAURANTS AND BARS	KM - KINGMAN	CITY
015 - CONTRACTING - PRIME	KM - KINGMAN	CITY
315 - MRRA AMOUNT	KM - KINGMAN	CITY
015 - CONTRACTING - PRIME	LH - LAKE HAVASU CITY	CITY
017 - RETAIL	PG - PAGE	CITY
015 - CONTRACTING - PRIME	PL - PRESCOTT VALLEY	CITY
017 - RETAIL	PL - PRESCOTT VALLEY	CITY
315 - MRRA AMOUNT	PL - PRESCOTT VALLEY	CITY
015 - CONTRACTING - PRIME	PR - PRESCOTT	CITY
017 - RETAIL	PR - PRESCOTT	CITY
315 - MRRA AMOUNT	PR - PRESCOTT	CITY
015 - CONTRACTING - PRIME	PS - PAYSON	CITY
015 - CONTRACTING - PRIME	SE - SEDONA	CITY
017 - RETAIL	SE - SEDONA	CITY
315 - MRRA AMOUNT	SE - SEDONA	CITY
015 - CONTRACTING - PRIME	SF - SAFFORD	CITY
015 - CONTRACTING - PRIME	SL - SHOW LOW	CITY
015 - CONTRACTING - PRIME	SO - SOMERTON	CITY
017 - RETAIL	SO - SOMERTON	CITY
011 - RESTAURANTS AND BARS	WB - WICKENBURG	CITY
015 - CONTRACTING - PRIME	WB - WICKENBURG	CITY
015 - CONTRACTING - PRIME	WC - WILLCOX	CITY

LICENSE: 13034136

BUSINESS CODE

015 - CONTRACTING - PRIME
015 - CONTRACTING - PRIME
315 - MRRA AMOUNT

REGION

WL - WILLIAMS
WS - WINSLOW
WS - WINSLOW

JURISDICTION

CITY
CITY
CITY

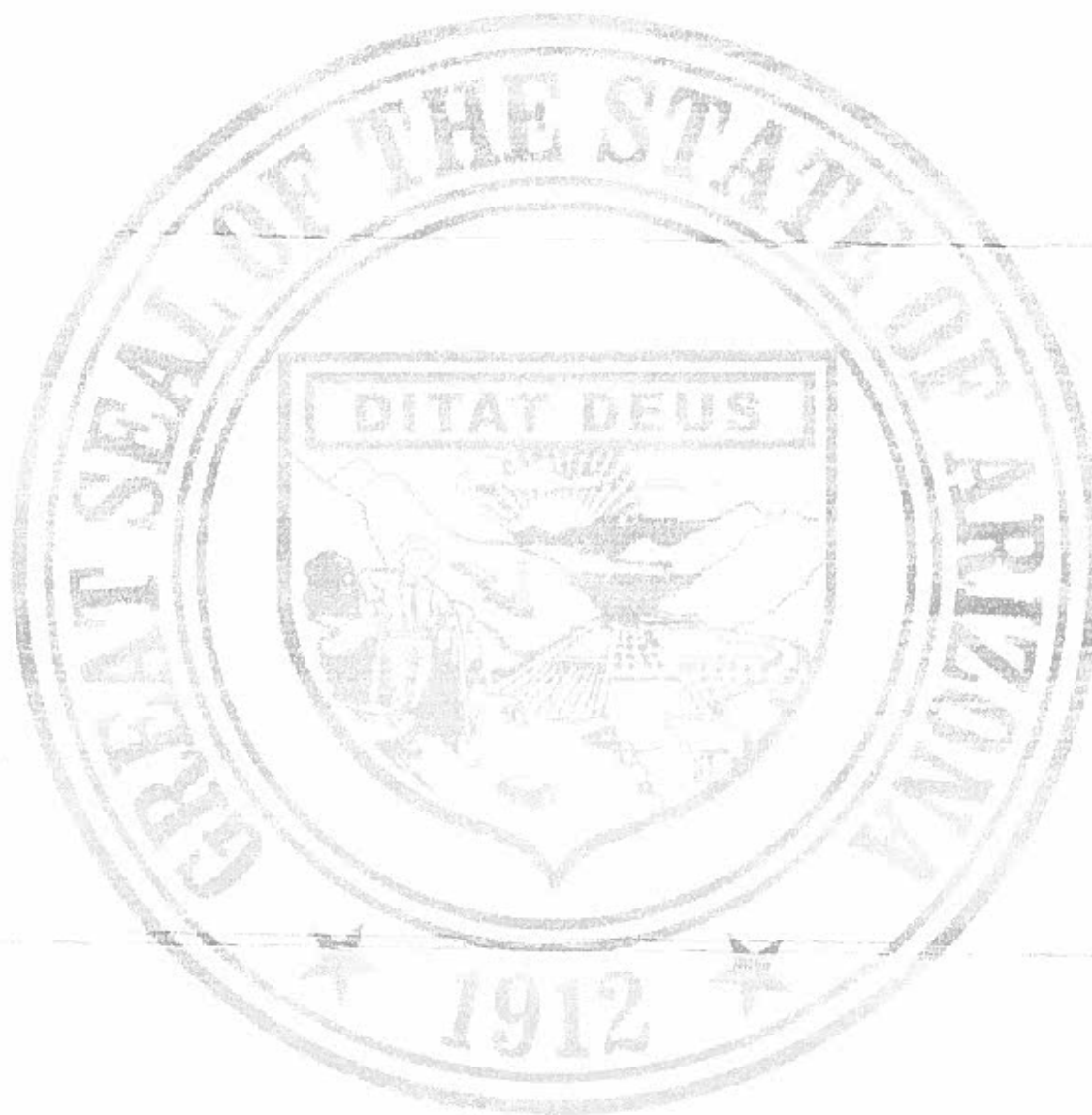


EXHIBIT D
TO
INVITATION FOR BIDS
FOR
2023-003 ROADWAY PAVEMENT MARKING PROJECT

[References]

See following page.

REFERENCES

Provide the following information for three clients for whom Bidder has successfully completed similar projects as set forth in Section 2.15 within the past 60 months. Failure to provide three accurate and suitable references may result in disqualification. Bidder may also attach another sheet with additional references.

Company: Yavapai County Arizona
 Address: 1100 Commerce Dr.
 City/State/Zip Code: Prescott, AZ 86305
 Contact: Jonathan David
 Telephone Number: 1 (928) 710-9923
 Contract Initiation Date: August 20, 2021 Contract Expiration Date: August 19, 2022
 Project Description: Annual Pavement Markings
 Contract Value: \$ 540,892.30 Annual Amount 263,255.92

Company: Cand E Paving
 Address: 4740 S. Heckethorn Rd.
 City/State/Zip Code: Flagstaff, AZ 86005
 Contact: Corky Heckethorn
 Telephone Number: 1-928-774-4133
 Contract Initiation Date: 5/1/2022 Contract Expiration Date: 7/1/2022
 Project Description: City of Flagstaff Pavement Maintenance
 Contract Value: \$ 63,938.57 Annual Amount 63,938.57

Company: City of Prescott
 Address: 430 N. Virginia St.
 City/State/Zip Code: Prescott, AZ 86301
 Contact: Ian Mattingly
 Telephone Number: 1-928-777-1130
 Contract Initiation Date: April 27th, 2021 Contract Expiration Date: April 27th, 2022
 Project Description: Annual Pavement Marking
 Contract Value: \$ 333,085.79 Annual Amount 332,979.04

EXHIBIT E
TO
INVITATION FOR BIDS
FOR
2023-003 ROADWAY PAVEMENT MARKING PROJECT

[Acknowledgment of Addenda received, if any]

See following page(s).



TOWN OF CHINO VALLEY

ADDENDUM NO. 1

2023-0003 Roadway Pavement Marking Project

Bid Open Date: Wednesday, August 2, 2023
Time: 3:00 P.M., local-time, Chino Valley, AZ
Place: Town of Chino Valley
 202 North State Route 89
 Chino Valley, AZ 86323

Make all revisions to the specifications and contract documents stated herein. Insofar as the original specifications and contract documents are at variance with this Addendum, the Addendum shall govern.

This Addendum consists of 2 page(s).

SPECIFICATION CHANGES:

1. Exhibit B, Price Sheet, REMOVE and REPLACE with revised Price Sheet dated 7/31/23.

BY

Steven Sullivan, PE
 Assistant Town Engineer

Date

7/31/23

ACKNOWLEDGEMENT OF ADDENDUM NO. 1

BY

Date

8/1/23

EXHIBIT F
TO
INVITATION FOR BIDS
FOR
2023-003 ROADWAY PAVEMENT MARKING PROJECT

[Work Orders]

See following pages (to be attached subsequent to execution).



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting2023

5. c.

Meeting Date: 08/22/2023

Contact Person: Erin Deskins, Town Clerk

Department: Town Clerk

Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the June 12, 2023, study session minutes.

RECOMMENDED ACTION:

Approve the June 12, 2023, study session minutes.

Attachments

June 12, 2023 Study Session Minutes

DRAFT

MINUTES OF THE STUDY SESSION OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

**MONDAY, JUNE 12, 2023
6:00 P.M.**

CHINO VALLEY COUNCIL CHAMBERS 202 N. STATE ROUTE 89, CHINO VALLEY, AZ

Present: Mayor Jack Miller; Vice-Mayor Eric Granillo; Councilmember Annie Perkins; Councilmember Tom Armstrong; Councilmember John McCafferty; Councilmember Sherri Phillips; Councilmember Robert Schacherer; Chair Chuck Merritt; Vice-Chair Gary Pasciak; Commissioner Teena Meadors; Commissioner Ronald Penn; Commissioner Robert Switzer; Commissioner Richard Zamudio

Absent: Commissioner William Welker

Staff Town Manager Cindy Blackmore; Development Services Director Laurie Lineberry; Public Works
Present: Director/Town Engineer Frank Marbury; Assistant Development Services Director Will Dingee; IT Manager Spencer Guest; Deputy Town Clerk Sara Burchill; Town Clerk Erin N. Deskins

1) CALL TO ORDER; ROLL CALL

Mayor Miller called the meeting to order at 6:01 p.m.

2) Presentation, update, and discussion by Matrix Design Group regarding the General Plan Update.

Laurie Lineberry presented the following:

- This was the second to last meeting regarding the General Plan (GP) which had been worked on for the last year by staff and Matrix.
- The Steering Committee had met the previous week to make responses to comments made by the public and those responses were being presented to Council and Commission. They were not able to come to agreements on some items and those would be presented to Council and Commission for feedback and guidance.
- The meeting was open for the public to view, but it was not meant to be an open dialogue with them as that portion of the process was closed until the Public Hearing.

Celeste Werner, Matrix, presented the following:

- Introduced the Matrix team (Bren Cox – Project Manager, Ed Boik – Senior Planner, Laney Corey – Planner, Heather Garbarino who was joining virtually) and gave an overview of what would be discussed during the meeting.
- The purpose of the meeting was for roundtable type dialogue and discussion regarding the

Future Land Use Map (FLUM) and the goals and policies within the recommended final plan which would be delivered in two weeks.

- The topics they would be covering included all 89 comments received during the 60-day public draft period, plus those discussed by the Steering Committee and Town Staff, and presentation and discussion regarding the steering committee's recommendations on key public draft comments. Every comment received from the public had been included in the materials presented to Council and Commission.
- The goal of the meeting was to get a consensus from Council and Commission for the final draft plan.

Meeting recessed at 6:09 p.m.

Meeting reconvened at 6:17 p.m.

Celeste Werner continued:

- Reviewed the GP timeline, discussed upcoming meetings (Public Hearings would be held on June 26th and 27th, followed by approval by Commission and Council), and ratification by the voters.
- Discussed the next steps if the GP was not approved by the voters. The whole process would have to be started over again. If not approved by Council the GP could continue to be worked on before the next election without starting all over.
- Ms. Werner discussed when and how commissioners, councilmembers, and Town staff could discuss the GP with the public, specifically regarding advocating for the plan. Matrix would be providing the councilmembers and commissioners with an "Ambassador Package" to be able to provide factual information when talking about the GP. Councilmembers and Commissioners could advocate for or against the GP, but only as private citizens, not as members of the Commission or Council, and state that they support it because of "x."
- Provided an overview of what the GP was and why it was being done. It was mandated by State Statute to be done every 10 years. The 2014 GP would expire next year.
- Discussed the function of a GP. It was not regulatory or a zoning ordinance and did not modify existing uses.
- Gave a brief overview on the elements included in the GP, some that were required by statute, others that were uniquely important to Chino Valley including: land use, circulation, parks and natural resources, public facilities and services, and economic development.
- Ms. Werner outlined the differences between the 2014 GP and the 2040 GP. The current GP was general, ambiguous, did not address the growth currently being encountered, and did not support the current community vision for rural, open space; rather it provided for a much more dense and urban development by supporting unlimited high-density and multi-family residential anywhere along Highway 89. The 2040 GP was a complete rewrite, not an update to the 2014 GP.
- The new 2040 GP would be adding four land use categories for a total of nine.
- Ms. Werner outlined the changes in policies that would move the Town away from urban development and high density currently allowed in the 2014 GP, and what was missing that the 2040 GP would provide:
 - In the 2014 GP the FLUM designated the East side of Town as "Future Growth Area" including commercial, industrial, and planned unit development.
 - The 2014 GP designated the West side of 89 as Medium Density Residential was categorized as one dwelling unit per two acres or less, meaning there could be one dwelling unit or 20 dwelling units. Matrix was proposing one dwelling unit per four plus acres.

- Land Use Category – Commercial Multi-Family was a corridor down 89 allowing as much commercial or multi-family as desired.
- The 2040 GP would add policies supporting rural character of the community, supporting buffering or screening of non-compatible uses, supporting additional youth activities, providing guidance on maintaining the roads and how to prioritize such, resiliency, manufactured homes, limiting density and specific compatible locations for multi-family residences, supporting transitional, smart growth, and sidewalks and multi-use trails.
- Ms. Werner reviewed the 60-day Public Review Draft period which was between April 7th and June 6th.
 - The community received notice of this period via emails, the Town Facebook page, and the Town's GP website.
 - 89 comments were received from the public. Matrix created responses to comments as they came in, then shared with Town staff and vetted and revised the responses. Those responses were then taken to the Steering Committee to adjust the responses further and add goals and policies, and suggested changes.

Will Dingee presented the following:

- Reviewed the 2040 draft FLUM. Medium Density Residential would be replaced with Rural Residential meaning one acre and up.
- The "Future Growth Area" would be replaced with Rural Agricultural which would be four acres and up.
- The areas designated as Horizontal Multi-Use (HMU) was categorized as commercial and higher density, but only 25% of the area would have the potential for residential development.
- Neighborhood Residential was designated as quarter- to half-acre lots.
- The plan was different now than it was presented in the public draft based on public, steering committee, and staff comment. The changes included:
 - More Open Space for the State Park
 - The area around Road 5 North was changed from Neighborhood Commercial to Light Industrial.
 - The area around Road 3 North was changed from Neighborhood Commercial to HMU to promote a more cohesive commercial development.
 - North Road 1 West had entitled land for lots at 1/3 acre and up. It would be incorporated into the Neighborhood Residential category to serve as a transition area from HMU to a quarter-acre to half-acre and then one acre and up.
 - The Community Center at Center Street was changed to Historic Center.
 - West Road 1 South had been categorized at Neighborhood Residential stretching to the Highway, but it was changed to Neighborhood Commercial to support Olsen's and the new commercial buildings planned for the corner. The East side of the same road was changed from Neighborhood Residential to Rural Residential.
 - Neighborhood Residential was added between Road 2 South and Road 4 South as a buffer between the Regional Commercial along Highway 89 to the Rural Residential (one acre minimum).
 - Road 4 ½ South was designated as Neighborhood Residential and was now proposed as HMU to support the commercial development that was there along with the development agreement that existed with the pot farm to allow some multi-family residential.
 - Some of the HMU area around Old Home Manor was replaced with Rural Agricultural (four acres plus).
 - A buffer was placed between Road 4 North and a proposed solar farm.
 - Total developable units were 18,927 units at the beginning of the public draft period. All the changes brought the developable units down to 18,090.

- Mr. Dingee discussed the State Park at Del Rio Springs along with alternative plans if a State Park did not go through, and what options the developer had based on their current entitlements. The developer was supportive of the State Park. However, without the State Park the developer was looking at quarter acre and half acre lots. The Steering Committee did not like that plan and wanted some stratification so that there was more density at the south end and larger lots towards the north end.

Council, Commission, Staff, and Matrix discussed the following:

- The new FLUM would create policy for what should be developed in the event that a State Park was not established.
- Staff and the developer had already made considerable compromises that allowed for slightly more density on the east but allowed for better buffering between any development to the west.
- One commissioner questioned if the developer was in support of the State Park, why they wouldn't leave the land as open space if the State Park fell through.
 - Ms. Lineberry stated that there were a lot of players in the plan for the State Park and if one threw a wrench that made all the dominoes fall, it would be wise to have an alternative.
 - The developer already had entitlements to build out the area with lot size 0.16.
 - The commissioner stated that if it would be going to the voters as Open Space, that's what the plan should be with no alternative.
 - Without creating policy for the alternate plan, if the State Park fell through, the developer would be forced to revert to his original entitlements of 0.16 acre lots because quarter acre and half acre lots would not be in conformance with the 2040 GP.
 - One councilmember pointed out that if they only presented the open space to the voters, the GP passed, and the State Park did not go through, and the developer built on the land, there would be a lot of angry citizens.
 - One Commissioner stated that rejecting the alternative map should the State Park fall through could change the attitude of the developer who was currently willing to work and compromise with the Town to come to a development that both parties could be comfortable with.
 - Although the developer had the ability to build out to their original entitlements, they wanted to partner with the Town. The Town would lose nothing by accepting the alternate map if the State Park did not go through.
- One councilmember asked when they would know if the State Park would happen or not.
 - Ms. Werner stated that it would not be before the new GP went to the voters, and that it could be years. A policy was included stating that the Town supported a State Park and would work and partner with the State and owners of the property to move forward with the establishment of a State Park. This would provide a foundation for Council to advocate on behalf of the Town and let the State know that the community also supported a State Park.
- One councilmember inquired about keeping Open Space around Sullivan Lake.
 - It had not come up in the Steering Committee. They had been focused on the residential areas around Del Rio Springs.
 - One commissioner stated that they wouldn't be able to build in that area because it's a floodplain.
 - Ms. Werner stated that they could build there, but homeowners would not be able to get insurance. She and Mr. Boik outlined the process developers would have to take to build there and what challenges they would run into.
 - Council and Commission agreed that the area of Sullivan Lake should also be designated Open Space.

Ms. Werner, presented the following:

- Most policy changes were recommendations for new goals and policies. They would be presented by each element.
- The first element was Land Use.
 - Aggregates – this was being recommended because of a public comment from Arizona State Land Department that they should incorporate a goal and policies that supports the ARS regarding mining. There was different policies being recommended stating that aggregate mining operations were only located in areas that were compatible with surrounding uses and would guide compatible locations and support for future mining operations.
 - Circulation – these were new policies as a result of the Steering Committee meeting stating that there would be connectivity between future developments to provide access to public streets and roadways. The second recommendation was to partner with Yavapai County via Intergovernmental Agreement to share the cost of utilizing capital equipment. It could also be revised to include the purchase of products in bulk.
 - Mr. Marbury suggested changing the wording to “explore partnering with Yavapai County.”
 - One commissioner suggested making it “local jurisdictions” so that the Town was not limited to Yavapai County.
 - Parks, Recreation, Natural Resources – one policy served to be more explicit about expanding the availability of youth and teen recreation programs and amenities at existing and new Town parks in response to growth. The second would require new subdivision developments of fifty or more residential lots to provide, develop, and maintain park space accessible by the residents, not necessarily the public. The reason for the 50-lot requirement was because it could be prohibitive to maintain for communities with less lots. Another consideration was that communities with fewer than 50 lots often came with one or two acre lots allowing for private open space right in the resident’s back yard making them less likely to want or need such an amenity. The third policy would coordinate and partner with the Chino Valley Irrigation District (CVID) to assess the feasibility of utilizing irrigation district easements to develop pedestrian and equestrian trails. The fourth policy would be an implementation action to continue to partner with the Trust for Public Land, Nature Conservancy, State, and other stakeholders for the acquisition of 980 acres of land north of Road 5 North and East of Highway 89 to establish a State Park.
 - Ms. Blackmore suggested adding the word “explore” to the CVID partnership.
- Resiliency – these policies were intended to address providing quality of life and services to a community in the event something catastrophic happened. The proposed goals and policies would help to enhance the resiliency of the community and could be explored or evaluated in the future to help make that a reality, particularly for power and water. The goal was “enhance Town resiliency by seeking redundant sources of water and power to support stable regional and community serving utility systems and minimize service disruptions.” Through this goal a long list of policies were developed including:
 - Evaluate best-practice community-scale solar energy policies
 - Develop solar energy generation facilities that do not impact wildlife movement
 - Establish a committee to develop guidelines and regulations for solar energy facilities
 - Require any new community or regional scale solar energy development proposal to include a reclamation plan

- Evaluate microgrid solar energy generation facilities within the Ranch Agricultural land use category
 - Mr. Boik explained that a microgrid was a grid that could exist and serve unto itself and that small community. If the transmission around the microgrid came down the microgrid could stay operational because it had it's own self sustaining power source. Because it would be interconnected to the larger grid, it could provide power elsewhere.
 - Review utility tax, fees, licenses, or other revenue mechanisms that may be applicable to solar and other power generation facilities.
 - Ms. Werner stated that when reviewing grant applications for resiliency, grant agencies will look at an organization's plan to see if it was set up as an important policy to support the request.
 - One councilmember asked if APS had been part of these discussions.
 - Ms. Werner stated that this was a conversation that came up during the last Steering Committee meeting just a few days ago, but they were only policies about exploring and evaluating options rather than enacting programs.
- Water resiliency – these policies were a result of similar goals as power resiliency, but regarding water:
 - Explore funding options for additional Town water storage tanks
 - Engage with private community service water operators to integrate them into the Town's water service portfolio
 - Identify partners such as federal agencies or investors to fund new water infrastructure
 - Actively coordinate with Prescott AMA Groundwater Users Advisory Council to partner with surrounding jurisdictions
 - New development to be responsible for installation of infrastructure extensions
 - Pursue Town designation as an assured community water provider
 - All new subdivisions of six or more lots shall provide a 100 year assured water supply as per A.R.S. 45-576.
 - Mr. Boik stated that the AMA for the Phoenix Metro area was no longer able to issue assured water supply certificates to development that was not within an assured community water provider system or doesn't already have entitlement and assured water certificates which would push growth to other counties.
- Allowing Septic Tanks on Rural Residential Land Use Category Lots – this came from a public comment stating that new wells and septic systems should be allowed within the Rural Residential land use category. Matrix was looking for guidance from Council and Commission on this topic.
 - The County required an acre in order to be allowed a well and septic.
 - Council and Commission discussed allowing Rural Residential lots of one acre or larger to be allowed a well and septic system. Some members stated that it had to be included. Others stated that the public did not want any more wells installed.
 - One councilmember inquired as to how the Town could tell people they couldn't have a well or septic when the County stated they could.
 - Mr. Boik stated that as an incorporated community, the Town could make land use decisions about how infrastructure should be delivered, even though the County was the permitting entity.
 - Mr. Marbury stated that the Town already restricted the County rules because if a one acre subdivision was within 300 feet of the nearest sewer, they had to connect.

- One commissioner pondered if the policy was needed at all as they were discussing allowing septic systems on one acre lots which was already present in Town policy.
- Ms. Werner stated that they could delete the policy. Or, it could be rewritten to state that as infrastructure was built out the Town would require residents to connect in order to control the groundwater and septic tank leakage.
- Councilmembers stated that the Town already had a policy that stated failed septic systems had to tap into sewer if the infrastructure was already in place at the property.

Council, Commission, Staff and Matrix discussed the following:

- One councilmember stated that 44% of the homes in Town were manufactured homes and inquired if that was a high number.
 - Ms. Werner stated that it was a high number for manufactured homes.
 - The councilmember stated that he worried about that number and inquired about how to get that number to 30% as there was nothing in the GP addressing the issue.
 - Another councilmember stated that there were so many because no one wanted to move to Chino Valley and that was the cheapest way to get people to move to the area.
 - Ms. Werner stated that the typical number was usually closer to 10-15% of homes would be manufactured.
 - One commissioner stated that if they were going to talk about the percentage of manufactured homes they also needed to talk about the percentage of multi-family dwellings because .08% was really small compared to other municipalities. If they were going to restrict manufactured homes, they needed to start allowing multi-family.
 - Ms. Werner stated that the GP did include a policy stating no manufactured homes within half a mile of Highway 89.
 - Another commissioner asked if there should be designated locations for manufactured homes.
 - Mr. Boik stated that the Steering Committee discussed manufactured homes and guided Matrix to the buffer of no additional manufactured homes within a half mile of Highway 89. They also included policies regarding design standards for manufactured homes and built with better quality like stick-built homes. There had also been conversation resulting with the need to create an Ad Hoc committee to discuss manufactured homes and how they're handled in a regulatory fashion.
 - Ms. Werner stated that the committee was proposed because it was so difficult to come to the consensus of where they ended up. She stated they could address it tonight, or it could be an amendment to a GP in the future if they didn't want to address it in this update.
 - One commissioner asked if the issue were to be addressed during a Public Hearing could it be addressed after that meeting.
 - Other Council and Commission members stated that the comment period was fairly long and had already been closed and they should have commented already.
 - Ms. Lineberry stated that the Planning & Zoning Commission would hear public comment and make a recommendation to Council with anything additional that resulted from that meeting. Those recommendations would be presented to Council the next night. Council could then support all of them, some of them, or none of them.
 - One commissioner asked if there had been any comments about manufactured homes being in certain places.

- Another commissioner asked about adding a policy to explore a committee to review the UDO under manufactured home policy and procedure so that there was something in the GP to look at the issue in the future.
- One Councilmember asked why this was an issue stating that if people can afford a manufactured home, that's what they can afford and the Town didn't need to govern it. It wasn't fair to the people who lived here and those who were moving here.
- Ms. Werner stated nothing would be included in the GP regarding the number of manufactured homes.

3) **ADJOURNMENT**

MOVED by Councilmember Annie Perkins, seconded by Vice-Mayor Eric Granillo to adjourn the meeting at 8:37 p.m.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the _____ day of _____, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2023.

Erin N. Deskins, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting2023

5. d.

Meeting Date: 08/22/2023

Contact Person: Erin Deskins, Town Clerk

Department: Town Clerk

Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the June 27, 2023, regular and special meeting minutes.

RECOMMENDED ACTION:

Approve the June 27, 2023, regular and special meeting minutes.

Attachments

June 27, 2023, Special and Regular Meeting Minutes

DRAFT

MINUTES OF THE SPECIAL MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

**TUESDAY, JUNE 27, 2023
4:00 P.M.**

CHINO VALLEY COUNCIL CHAMBERS 202 N. STATE ROUTE 89, CHINO VALLEY, AZ

Present: Mayor Jack Miller; Vice-Mayor Eric Granillo; Councilmember Annie Perkins; Councilmember Tom Armstrong; Councilmember John McCafferty; Councilmember Sherri Phillips; Councilmember Robert Schacherer

Staff Present: Town Manager Cindy Blackmore; Town Attorney Andrew McGuire - remote; Town Attorney John Gaylord - remote; Assistant to the Town Manager Terri Denemy; Public Works Director/Town Engineer Frank Marbury; Development Services Director Laurie Lineberry; Assistant Development Services Director Will Dingee; Economic Development Manager Maggie Tidaback; Audio Visual Technician Lawrence Digges; Deputy Town Clerk Sara Burchill; Town Clerk Erin N. Deskins;

1) CALL TO ORDER; ROLL CALL

Mayor Miller called the meeting to order at 4:00 p.m.

2) Public Hearing, consideration and possible action on Resolution No. 2023-1231, regarding adopting the "Make It Chino! 2040 General Plan" as the general plan for the Town of Chino Valley and directing that it be placed on the ballot at the special election to be held on November 7, 2023, for ratification by the voters.

Laurie Lineberry presented the following:

- They would be presenting the proposed General Plan (GP) that had been in the works for the last year.
- Matrix worked closely with Town staff and the Steering Committee.
- A lot of time was spent on outreach and getting public input so that the plan would be one that the community wanted.

Celeste Werner presented the following:

- Thanked Council, the public, staff, and the Steering Committee for all the work that was put in.
- Introduced the Matrix team.
- There was a State mandate to update the GP every 10 years.
- This GP would be able to present the growth that happened in the last 10 years and

reflect the new vision of the Town.

- The 2040 GP was closer to a rewrite than an update in order to meet the Town's new vision. It focused on preserving and protecting the Town's rural character.
- The GP was long-term, comprehensive, and general meaning that it covered several topics but did not go deep into each topic, but they were all interconnected and related.
- It was not zoning, a unified development ordinance, regulatory in nature, nor would it modify existing uses.
- It was a policy document that would help the elected officials to make decisions in the future as new developments came forward.
- There were three components that made up the Town's GP: the future land use map, goals and policies, and an implementation plan. The first two were required by law.
- The community led the plan with several components of engagement including focus group interviews (10), public open houses (2), steering committee meetings (6), website and other online opportunities for input, etc.
- Provided numbers on public engagement including postcards sent regarding open houses, attendance numbers, traffic on the website, etc.
- The public wanted:
 - Preserve rural character
 - Attainable housing for all demographics [no more than eight dwelling units(du) per acre]
 - Higher density uses on Highway 89
 - Buffering through landscaping, fencing, and/or transitional uses
 - Prioritizing road maintenance
 - Transportation plan and walkability around recreation and activity areas
 - Recreation
 - Open space
 - Interconnectivity for trails
 - A Town Center
 - Prioritize water
 - Economic Development
- There were eight chapters in the GP and five chapters focused on the different elements.
 - Land Use Map
 - ▣ Had nine different land use categories.
 - ▣ Residential had three categories: Ranch/Agricultural (1 du/4+ acres), Rural Residential (1 du/acre), and Neighborhood Residential (1-4 du/acre).
 - ▣ Horizontal Multi-Use: this was mixed use category including commercial, office, multi-family up to 8 du/acre.
 - ▣ Open Space encompassed the creeks, Sullivan Lake, 980 acres dedicated for a State Park.
 - ▣ Commercial development was broken into two categories including: Neighborhood Commercial (businesses that neighborhoods need such as dry cleaners, grocery stores, etc.) and Regional Commercial (businesses that will attract people from outside Chino and provide services to the community).
 - ▣ Industrial development was broken into two categories including: Light Industrial and Heavy Industrial (only two locations to support mining and aggregate uses).
 - ▣ There was nearly 40,000 acres of land within the Town. After removing 20% to account for acreage required to put in roads and infrastructure, and calculating building out to 75% of the maximum possible density, Matrix was able to calculate that the total dwelling units the Town was likely to see under the new GP would be 18,090. The old GP allowed for 23,732

- dwelling units.
- ▣ According to national averages for land use in small towns Chino Valley had nearly six percent more open space, nearly three percent less industrial, five percent less commercial and two percent more residential.
- ▣ Goals and Policies included buffering, discouraging strip commercial along Highway 89, supporting agricultural and equestrian, developing area plans design guidelines, storage only allowed in light industrial areas.
- ▣ Rewording policy LU-8.4 to clarify that if the State Park did not go forward the 980 acres would revert to the alternate future land use.
- Circulation
 - ▣ Goals and policies included a transportation master plan, prioritizing road maintenance, and a sidewalk development program.
- Parks, Recreation, and Natural Resources
 - ▣ Goals and policies included a parks, trails, and open space master plan, requiring neighborhood parks for subdivisions with 50 or more dwelling units, expanding youth and teen recreation, and focusing on recreation opportunities within Old Home Manor (OHM).
- Community Services and Facilities
 - ▣ Goals and policies included developing a facilities master plan, developing a water, sewer and stormwater master plan, and pursuing government and private grants.
- Economic Development
 - ▣ Goals and policies included business attraction, OHM providing recreation and mix of uses, enhance the Town's branding, and promoting long-term financial stability.

Mayor Miller opened the Public Hearing

Rachelle Fernow presented the following:

- She was a member of the public and the steering committee.
- There were only two Steering Committee members that attended all meetings including herself and Larry Aldrich. Of the other members, seven participated 50% of the time or more, four people participated under 35% of the time, and one member never attended. She wanted to see more consideration of the people appointed to such committees who would understand the commitment involved.
- She was proud of those members who did participate and felt they worked really well together, finding compromises to guide the plan in a good direction as the Town grew over the next 10 years.
- She was most proud of the Rural Residential land use category which accounted for over 10,000 acres. Neighborhood Residential was just under 2,700 acres, a lot of which was already designated for entitlements at .16 zoning. Should they come back to do any different planning, their density would be reduced, which was a positive step. The Horizontal Multi-use would be the most controversial and it was important to get the message out to the public that only 25% of those 3,100 acres would be allowed to be residential, totaling about 775 acres.
- She was happy with a lot of the policies and goals put forward.
- She was open to be a facilitator to the public and make suggestions on why this plan was so much better than what the Town currently had.

Mayor Miller closed the Public Hearing.

Councilmember Perkins thanked all involved and agreed with 85% of the plan.

Councilmember McCafferty stated that everyone did a good job on the project.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember John McCafferty to approve Resolution Number 2023-1231 regarding adopting the Make It Chino! 2040 General Plan as the General Plan for the Town of Chino Valley and directing that it be placed on the ballot at the Special Election to be held on November 7, 2023 for ratification by the voters including the amendment to policy LU-8.4. **

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

6 - 1 PASSED (Councilmember Annie Perkins abstained)

**After the conclusion of the meeting, Councilmember Perkins informed the Clerk that she had abstained from the vote.

3) **ADJOURNMENT**

Mayor Miller adjourned the meeting at 4:43 p.m.

**REGULAR MEETING
TUESDAY, JUNE 27, 2023
6:00 P.M.**

**Council Chambers
202 N. State Route 89
Chino Valley, Arizona**

1) **CALL TO ORDER, PLEDGE OF ALLEGIANCE; ROLL CALL**

Mayor Miller called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

All members of Council and Staff previously mentioned were present for the duration of the Regular Meeting except Town Attorney John Gaylord, Development Services Director Laurie Lineberry, and Assistant Development Services Director Will Dingee. New staff attendees included Chief Chuck Wynn, Lieutenant Josh McIntyre (Sgt at Arms), Lieutenant Randy Chapman, Officer Douglas Hawk, Finance Director Joe Duffy, HR Director Laura Kyriakakis, and Community Services Director Cyndi Thomas.

2) **INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**

- a) Presentation of certificate of appreciation to members of the General Plan Steering Committee.

This item was moved to the July 11, 2023, regular meeting.

3) CALL TO THE PUBLIC- Individuals requesting to speak, please complete a Speaker Comment Card and return to the Clerk.

Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is at the discretion of the Council and not required by law. Individuals are limited to speak for three (3) minutes, yielding of time will not be permitted. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism. Disrespectful behavior will not be tolerated; this includes loud outbursts, profanity and disruptive discussions among our audience.

4) CURRENT EVENT SUMMARIES AND REPORTS

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.

a) Status reports by Mayor and Council regarding current events.

Mayor Miller presented the following:

- The Town would not be having fireworks on the 4th of July, but they would for the Territorial Days weekend.

Councilmember Perkins presented the following:

- Friday was the 10th anniversary of the Yarnell Hill Fire where the Hotshot 19 were lost. There would be a commemoration ceremony in Prescott at 3:00 p.m. at the Courthouse. She read an excerpt from the Granit Mountain Interagency Hotshot Crew Learning and Tribute Center.

Councilmember Armstrong presented the following:

- The Police Department did a great job at the Olsen's event to show off K-9 Officer Sirius.

b) Status report by Town Manager Cindy Blackmore regarding Town accomplishments, and current or upcoming projects.

Cindy Blackmore, Town Manager, presented the following:

- The Town received the Certificate of Occupancy for the new PD building and would be moving in over the next few weeks.
- Town offices would be closed for the July 4th holiday. The pool would be open.
- All American Bash would be held on July 8th in Memory Park. There would be contests, games, music, food, etc.
- Congratulations to Maggie Tidaback for being elected to the board for the Arizona

Association for Economic Development.

5) **CONSENT AGENDA**

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

Item 5(e) was removed by Councilmember Schacherer.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong to approve Consent Agenda items a, b, c, d, and f.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

- a) Consideration and possible action to approve the Professional Services Agreement with Lawrence Digges to provide audio and visual technician services beginning July 1, 2023, through June 30, 2024, for an amount not to exceed \$15,000.
- b) Consideration and possible action to approve the Addendum No. 2 to Contract for Legal Services with Gust Rosenfeld P.L.C. effective July 1, 2023.
- c) Consideration and possible action to appoint applicants recommended by the Appointments Subcommittee to the Roads and Streets Committee.
- d) Consideration and possible action to approve Resolution No. 2023-1230, designating Frank Marbury and Terri Denemy as the Authorized Representative and Alternate Authorized Representative to the Arizona Department of Emergency and Military Affairs for the purpose of obtaining financial assistance under the Disaster Relief Act.
- e) Consideration and possible action to award a one-year contract to Titan Landscaping for landscape maintenance services along State Route 89 in the amount of \$100,128.

Council and Staff discussed the following:

- Council inquired if the Town would be able to complete the job in-house.
 - The Town had been doing half the job for the last several years while contracting out the south half of Town. It was an extreme amount of time and effort that took away from other jobs street crews could be doing. It was a better use of time to contract it out. The Town could do it, but it would take \$100,000 worth of work away from other streets.
 - There was a scope of services in the contract that Titan would be required to do including removing trash and debris before mowing grass, weed prevention and

- removal, and cleaning of the sidewalks. It did not include replacing concrete.
- The Town was responsible for everything behind the curbs including the medians.
- The Town would have to hire additional staff to get it done for cheaper, but it would likely end up not being much cheaper at all.
- The work qualified for HURF funds so it would be the same pot of money whether it was in-house or contractors.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Annie Perkins to approve Consent Agenda item 5(e).

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

- f) Consideration and possible action to approve a First Amendment to the Accountability Contract and Scope of Services between the Town of Chino Valley and the Chino Valley Chamber of Commerce.

6) ACTION ITEMS

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a) Consideration and possible action to approve a Professional Services Agreement with CivilTec Engineering, Inc., to develop an Integrated Water Master Plan and 5-Year Capital Improvement Plan for \$498,994.

Recommended Action: Approve the Professional Services Agreement with CivilTec Engineering, Inc., to develop an Integrated Water Master Plan and 5-Year Capital Improvement Plan for \$498,994.

Mark Holmes, Town Water Consultant, presented the following:

- This item was regarding the Integrated Water Master Planning (IWMP) and Capital Improvement Planning (CIP).
- Review of the history that led to the activity including meetings, council retreats, approval of the IWMP and CIP, and awarding of the project to CivilTec.
- Phase one of the proposed plan would look at five major aspects including Town-wide growth projections, water resources master plan, water system master plan, sewer system master plan, and reclaimed water master plan.
- Phase 2 of the plan would look at the current systems and future expansions that would incorporate what already existed.
- Phase 3 would be the five-year CIP to determine improvements needed over a five-year period, and then from years five through 10. Determinations would be made on

- improvements needed to the existing system along with cost estimates.
- The importance of the IWMP included:
 - Ability to determine the build-out of water demands and needed water supplies for the Town.
 - Ability to determine water resource availability and the timing of water importation and mitigation and associated infrastructure.
 - Develop a complete water, sewer, and reclaimed water system map throughout the Town showing infrastructure types, locations, and sizing.
 - Develop a five-year CIP with priorities, benefits, and cost assessments.
 - Develop a 5-10 year CIP outlook ensuring appropriate needs are assessed and finances evaluated.
 - Becomes the living plan that would be updated every three to five years.
 - Any industrial, commercial, or residential landowners that desire utilities would utilize the Master Plan.
- Efforts on this project would include work sessions with Council, workshops, and executive summaries. Deliverables, along with the master plans and CIP, would include a hydraulic model for the various systems to be handed off to the engineers of future developments.
- The proposed budget was \$498,994.
- It would take a year to complete starting July of 2023, and finishing July of 2024.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember John McCafferty to approve the Professional Service Agreement with Civiltec Engineering, Inc. to develop an Integrated Water Master Plan and a five-year Capital Improvement Plan for \$498,994.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

- b)** Public Hearing regarding Resolution No. 2023-1225, relating to the Town's Final Budget for Fiscal Year 2023/2024 and the proposed expenditure limitation for the same year, in the amount of \$45,150,500.

Recommended Action: Hold the Public Hearing.

Joe Duffy, Finance Director, presented the following:

- Provided a brief overview for the public.
- Overviewed the schedule for the budget process and dates. This hearing was the second to last step in the process.
- The final budget included paying down the PSPRS liability, 10.5 new employees, a donation for the historical society, and a payroll projection update.
- Gave a brief overview on some smaller projects for the year including the Peavine Trail Connection, Parks equipment, lighting and building improvements, and wayfinding/placemaking signage, street improvements and reconstruction, small water projects, sewer study and construction.

Council and Staff discussed the following:

- The Town was currently about \$20,000,000 in debt, after this year's PSPRS payment it would be down to \$18,000,000. The PSPRS debt was not considered general obligation or government debt and was not a liability the Town actually had pay down but it was a liability that affected the Town. By paying down the unfunded liability the Town was reducing the amount they had to pay in contribution rates.
- Removing grants and transfers from the \$45 million budget, the Town's actual percentage of salaries and benefits were closer to 40% of the generated revenue, not 25%.

Mayor Miller opened the public hearing.

Erin Deskins, Town Clerk, stated that no one had requested to speak on this item.

Mayor Miller closed the public hearing.

- c) Public Hearing regarding Resolution No. 2023-1226, relating to the Statements and Estimates of Expenses of the Town of Chino Valley Street Lighting Improvement Districts for Fiscal Year 2023/2024, which shall constitute the budgets of the Districts for Fiscal Year 2023/2024.

Recommended Action: Hold the Public Hearing.

Joe Duffy, Finance Director, presented the following:

- The Street Lighting Improvement District was comprised of three areas in Brightstar subdivision.
- Every year the Town had to adopt a budget of what would be charged to the property owners, notify the county of the levy amount, and the County would add it to their property tax bills. Once it was collected by the County, it would be remitted to the Town to pay the APS bill.

Mayor Miller opened the public hearing.

Erin Deskins, Town Clerk, stated that no one had requested to speak on this item.

Mayor Miller closed the public hearing.

7) **ADJOURNMENT**

MOVED by Councilmember Sherri Phillips, seconded by Councilmember Tom Armstrong to adjourn the meeting at 6:26 p.m.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

**SPECIAL MEETING
TUESDAY, JUNE 27, 2023
6:05 P.M.**

**Council Chambers
202 N. State Route 89
Chino Valley, Arizona**

1) CALL TO ORDER; ROLL CALL

Mayor Miller called the meeting to order at 6:27 p.m.

All members of Council and Staff previously mentioned at the Regular Meeting were present for the duration of the Special Meeting.

2) Consideration and possible action to approve Resolution No. 2023-1225, relating to the Town's Final Budget for Fiscal Year 2023/2024 and the proposed expenditure limitation for the same year, in the amount of \$45,150,500.

Recommended Action: Approve Resolution 2023-1225, adopting the Fiscal Year 2023/2024 Final Budget and establishing the Fiscal Year 2023/2024 expenditure limitation.

Council discussed the following:

- This year the Town coffers would be reduced by \$1 million a year by adding additional staff. Citizens wanted three things: water, roads, and another grocery store. Council could impact two of the three. But by increasing staffing, the Town would have to function by \$1 million less per year moving forward, taking money away from capital improvement or other infrastructure costs. Nearly 40% of the Town's revenue (not accounting for grants and other program revenues) went to salaries.
- The Town had been living on Covid and other federal funding for the last few years but those funds would be going away. The Town needed to be fiscally conservative going forward.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Annie Perkins to approve Resolution 2023-1225 adopting the Fiscal Year 2023/2024 Final Budget and establishing the Fiscal Year 2023/2024 expenditure limitation.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

- 3) Consideration and possible action to approve Resolution No. 2023-1226, relating to the Statements and Estimates of Expenses of the Town of Chino Valley Street Lighting Improvement Districts for Fiscal Year 2023/2024, which shall constitute and are approved as the final budgets of the Districts for Fiscal Year 2023/2024.

Recommended Action: Approve Resolution No. 2023-1226, relating to the Statements and Estimates of Expenses of the Town of Chino Valley Street Lighting Improvement Districts for Fiscal Year 2023/2024, which shall constitute and are approved as the final budgets of the Districts for Fiscal Year 2023/2024.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Annie Perkins to approve Resolution 2023-1226 relating to the Statements and Estimates of Expenses for the Town of Chino Valley Street Lighting Improvement District for Fiscal Year 2023/2024 which shall constitute and approve as the Final Budget for the districts for Fiscal Year 2023/2024.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

4) **ADJOURNMENT**

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong to enter Executive Session.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

MOVED by Councilmember Sherri Phillips, seconded by Vice-Mayor Eric Granillo to adjourn the Special Meeting at 6:31 p.m.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

**EXECUTIVE SESSION
TUESDAY, JUNE 27, 2023
6:30 P.M.**

**Council Chambers
202 N. State Route 89
Chino Valley, Arizona**

AGENDA

- 1) **CALL TO ORDER; ROLL CALL**

- 2) An executive session pursuant to A.R.S. §38-431.03 (A)(4) for discussion or consultation with the Town Attorney in order to consider the Town's position and instruct the Town Attorney regarding an agreement relating to water resources.

- 3) **ADJOURNMENT**

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the _____ day of _____, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2023.

Erin N. Deskins, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting2023

5. e.

Meeting Date: 08/22/2023

Contact Person: Erin Deskins, Town Clerk

Department: Town Clerk

Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the July 11, 2023, regular meeting minutes.

RECOMMENDED ACTION:

Approve the July 11, 2023, regular meeting minutes.

Attachments

July 11, 2023 Regular Meeting Minutes

DRAFT

MINUTES OF THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

TUESDAY, JULY 11, 2023
6:00 P.M.

CHINO VALLEY COUNCIL CHAMBERS 202 N. STATE ROUTE 89, CHINO VALLEY, AZ

Present: Mayor Jack Miller; Vice-Mayor Eric Granillo; Councilmember Annie Perkins; Councilmember Tom Armstrong; Councilmember John McCafferty; Councilmember Sherri Phillips; Councilmember Robert Schacherer

Staff Present: Town Manager Cindy Blackmore; Town Attorney Andrew McGuire; Assistant to the Town Manager Terri Denemy; Development Services Director Laurie Lineberry; Public Works Director/Town Engineer Frank Marbury; Officer Austin McAvoy (Sgt at Arms) 6:14 pm; Assistant Development Services Director Will Dingee; Senior Planner Jessica Barragan; Community Services Director Cyndi Thomas; Audio Visual Technician Lawrence Digges; Deputy Town Clerk Sara Burchill; Town Clerk Erin N. Deskins

1) CALL TO ORDER, PLEDGE OF ALLEGIANCE; ROLL CALL

Mayor Miller called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

3) CALL TO THE PUBLIC- Individuals requesting to speak, please complete a Speaker Comment Card and return to the Clerk.

Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is at the discretion of the Council and not required by law. Individuals are limited to speak for three (3) minutes, yielding of time will not be permitted. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism. Disrespectful behavior will not be tolerated; this includes loud outbursts, profanity and disruptive discussions among our audience.

4) **CURRENT EVENT SUMMARIES AND REPORTS**

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.

- a) Status reports by Mayor and Council regarding current events.
- b) Status report by Town Manager Cindy Blackmore regarding Town accomplishments, and current or upcoming projects.

Cindy Blackmore, Town Manager, presented the following:

- Thanked everyone that attended the Town's first annual All-American Bash. Staff estimated about 450 people had come out. She also thanked the staff for putting in so much effort.
- The Police Department was now moving into their new building.
- The north driveway of Town Hall was no longer open and the public should utilize the south driveway entrance.
- Congratulated Brannon Conley on the Streets crew for receiving his Class A CDL. He had just joined the Town in March and was already working hard to improve himself.

5) **CONSENT AGENDA**

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember John McCafferty to approve Consent Agenda Items a, b, c, d, and e.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

- a) Consideration and possible action to adopt Resolution No. 2023-1227, levying and assessing an ad valorem tax on the assessed value of all real and personal property within the boundaries of the Town of Chino Valley Street Lighting Improvement Districts (CVSLID) for fiscal year 2023-2024, pursuant to Section 48-616, Arizona Revised Statutes.
- b) Consideration and possible action to approve the Fourth Amendment to the Town Prosecutor Contract with Lexington Law Firm through June 30, 2024, for additional services and a new monthly payment of \$4,083.33.
- c) Consideration and possible action to approve the May 17, 2023, study session minutes.

- d) Consideration and possible action to approve the May 23, 2023, regular meeting minutes.
- e) Consideration and possible action to approve the June 13, 2023, regular meeting minutes.

6) ACTION ITEMS

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a) Consideration and possible action to approve the APS Solar Communities Program Rural Government Agreement between the Town of Chino Valley and APS.

Recommended Action: Approve the APS Solar Communities Program Rural Government Agreement between the Town of Chino Valley and APS on Town Hall property.

Terri Denemy, Assistant to the Town Manager, presented the following:

- In January a Study Session was held discussing possibly putting in covered solar parking at the new Police Department or Town Hall. The feedback from that meeting was taken back to APS to come up with the agreement being presented.
- This program was created by APS to reach their goal of creating a sustainable energy future for Arizona while serving their customers
- The program would provide free solar-covered parking structures that they would own and maintain for 20 years. In return APS would provide a bill credit to their customers.
- The bill credit for government and municipal customers was based on the solar system size and would be applied to their bill every month once the site was operational.
- Provided a map to see the proposed Solar Panel Site Plan.
- The Town would be receiving a \$437 bill credit per month.
- The structures would also include lighting to improve lighting at Town Hall which was a planned expenditure for this fiscal year.
- If approved, the easement agreement would come before Council on August 22, 2023.

Council and Staff discussed the following:

- Some Councilmembers felt that a credit of \$437 per month was low and asked how many kilowatts would be generated.
 - The bottom of the site plan stated the estimated kilowatts were 339,376.
 - Staff stated that along with the bill credit the Town was getting all of the structures for free.
- Council asked about the panels being retrofitted to the PD's existing covered parking.
 - The panels were not able to be retrofitted and would not be installed on the PD covered parking structures.
- Council asked for clarification of who was responsible for the structures after the three years.

- The Town would be responsible for maintenance and upkeep after the initial three years, but APS would come back and do an annual inspection.
- Council inquired if a charging station would be included.
 - Staff stated that a charging station would not be included.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong to approve the APS Solar Communities Program Rural Government Agreement.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember Sherri Phillips

NAY: Councilmember John McCafferty, Councilmember Robert Schacherer

5 - 2 PASSED

- b) Consideration and possible action to approve a Professional Services Agreement with Duke's Root Control, Inc., to study inflow and infiltration in an amount not to exceed \$93,972.

Recommended Action: Approve a Professional Services Agreement with Duke's Root Control, Inc., to study inflow and infiltration in an amount not to exceed \$93,972.

Frank Marbury, Town Engineer, presented the following:

- This proposal was for an I&I Study, which was an Inflow and Infiltration Study to understand where and how much water was coming into the sewer treatment plant during storm events as too much fresh water in the treatment plant.
- When clear water entered the plant, it had to be treated, ultimately raising the Town's costs.
- Too much clear water in the plant could also harm the bacteria necessary for treating the water.
- The timing of this study was critical to be able to monitor the activity during monsoon season to pinpoint the areas that needed repair.
- The company would install flow meters in the Town's wastewater collection system for 60 days starting in July, 90 if needed due to lack of rain. The company only needed 90 days one time.
- The report would be due in November.
- The total cost was \$93,972.

Council and Staff discussed the following:

- Council inquired where the meters would be placed.
 - Staff stated they would be placed in every other manhole. They were portable meters, so they wouldn't be done all at once, they would be moved around.
- Council asked if the payment was a lump sum or several payments based on the amount of work done.
 - Staff stated it was a lump sum to collect data for 60 days and generate the report. Payment would be remitted upon completion of the report.
- Council asked how closely the report would be able to locate problems.
 - Manholes were placed approximately 400-500 feet away, so it should be within 500 feet, give or take.
- Council asked if they suspected the additional flow was coming from people's houses.
 - Staff didn't expect they would find anyone's houses dumping clear water into the

sewer, but rather expected that they'd find broken concrete grout around seals or disjointed pipe that had moved around after being crushed by heavy loads.

- Council asked for an approximate cost if the study was not done and the system failed.
 - Staff stated that pipe was costing \$300-\$350/linear foot and it added up quickly. The Town had several miles of pipe. A penny of engineering was worth a dollar of construction.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong to approve the Professional Service Agreement with Duke's Root Control, Inc. to study inflow and infiltration in an amount not to exceed \$93,972.00.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

- c) Public hearing, consideration, and possible action to approve Ordinance No. 2023-933 to rezone approximately 21 acres of real property located at the southeast corner of N Road 1 East and Red Cinder Road (APN 306-18-009Q and APN 306-18-009R) from Agricultural Residential 5-Acre Minimum to Single Family Residential 1-Acre Minimum.

Recommended Action: i) Hold a Public Hearing ii) Approve Ordinance No. 2023-933

Will Dingee, Assistant Development Services Director, presented the following:

- This item was the proposed rezone for the Red Cinder Estate subdivision to rezone the subject properties from the Agricultural Residential 5-Acre Minimum zoning district to the Single Family Residential 1-Acre Minimum zoning district.
- The item had two neighborhood meetings, on April 26th and April 27th, and went before the Planning and Zoning Commission (P&Z) on June 6th.
- The applicant and property owner were in attendance.
- The properties totaled about 21 acres and were located on the northeast corner of East Road 3 North and North Road 1 East.
- The properties were surrounded by a mix of AR-5, SR-1, and SR-0.16 lots and Commercial Light.
- The 2014 General Plan Land Use map designated the subject and surrounding properties as medium density residential two acres or less as well as Commercial/Multi-family. SR-1 was in conformance with the 2014 plan.
- Staff had received two letters of opposition for the project and were provided to Council.
- The rezone came with nine stipulations recommended by staff and P&Z. The applicant was in agreement with stipulations 1-8 and wanted to bring stipulation 9 to Council for discussion and request an extension or increase on the time limit.
- P&Z forwarded a recommendation of approval to Council.

Council and Staff discussed the following:

- Council asked to see the conceptual design.
 - Staff provided the conceptual design for Council. It was conceptual and would come before Council again if the rezone was approved.
- Council asked how close the properties were to the nearest sewer lines.
 - Staff stated that the existing closest sewer was either in Perkinsville Road, or

through the partially developed subdivision of the Perkinsville 44 development. One of the complications was the way the water flowed, which was uphill through the subdivision, so one of the options to get sewer to the properties would likely include a lift station.

- The project as planned would require 17 sewers and septic. Council asked what the Town needed to do to get within the distance to require hookup to sewer and water.
- Staff discussed various options and requirements to get the subject properties on sewer including performing a cost/benefit analysis, connecting through the Perkinsville 44 subdivision and the pros and cons of that scenario, and the possibility of needing a lift station which could cost \$250,000 or more by itself not counting pipe to connect to the sewer line at Perkinsville and Road 1 East. Sewer had not been extended north on Road 1 East because it was downhill and the sewer was going upwards. Staff did not recommend the applicant hook up to water and sewer at P&Z because Town Code called for sewer being within 300 feet to require hook up. The north half of the Perkinsville 44 Subdivision had not been built or platted and sewer had only come half-way through the lower half of the development.
- Council inquired if Staff was ok with dead-end roads, or if they would prefer to have connectors.
 - Staff stated there were preferences which they would work on with the developer. One option discussed at P&Z was developing a portion of the Road 3 North right-of-way. There were other considerations they would look at regarding the cul-de-sacs. Town Code did not require two ingress/egress unless it was more than 30 lots.
- Staff stated that getting the development on Town water had not been discussed at P&Z. State Statute stated that developments of fewer than 20 lots were not required to bring their paper water for the certificate unless they were getting on municipal water. For this development it would be \$1.25 million worth of water credits in addition to any pipe being installed.
- Council stated that the increased traffic coming out onto Road 1 East was a concern as the road was already in bad shape, Red Cinder was too small, and Road 3 North needed to be built.
 - Staff stated that in any of the mentioned scenarios the Town would look for improvements from the developer. Also, Road 3 North would need more right-of-way dedication.
- Council asked about traffic studies for the area.
 - Staff stated that the developer would have to provide traffic studies and the impacts to Road 1 East. Staff did not believe it would be a significant impact to the road.
- Council discussed continuing the item so the developer of this project and the developer of Perkinsville 44 could discuss solutions to get sewer closer to the subject property.

Council and applicant, Allen Nell, discussed the following:

- Council asked if Mr. Nell understood what Council was trying to accomplish with the previous discussions.
 - Mr. Nell stated he did and this was a conceptual plan and at least one issue could be addressed with Town staff. He was not sure about a resolution on water and sewer as the Perkinsville 44 project had stopped.

Mayor Miller opened the Public Hearing.

Diane Norberg presented the following:

- She and her husband moved to Chino Valley last year, specifically choosing the neighborhood in question. They had looked at many other cities and towns but loved the small-town country atmosphere of Chino Valley for it's uncrowded, wide-open spaces, livestock, large lots, and beautiful views.
- There was only one way to get to their neighborhood via Road 1 and Red Cinder. Any additional development would affect them.
- They did not know about Perkinsville 44 until after they purchased their house and were very disappointed to find out about it. The new development would be right next to Perkinsville 44 and there was no need for 17 more homes so close. Rezoning to 1 acre lots would not benefit the current neighbors in any way and would only benefit the developer.
- 15 or more homes would add to the pollution and overcrowding of vehicles on Road 1 which was already unsafe.
- The current residents liked the open rural country feeling and views and large lots that could handle livestock.
- She understood there would be growth, but hoped the Council would consider not making such a large reduction in lot size. A good compromise would be to keep the lots at two or more acres.
- She was also asking to not allow two story homes.

Rachelle Fernow presented the following:

- She had attended the Neighborhood and P&Z meeting on this item.
- Adam Haywood had been the representative on the project until the current meeting. When he had been brought concerns about the ingress/egress, the Road 3 North easement and the lot size he seemed that he would be open to some of the options discussed during the current meeting.
- The project was speaking to a larger issue with the Town Code not having more stringent requirements especially regarding sewer and water. Especially as the Town had been losing money with the water treatment plant.
- She was encouraging councilmembers to rewrite portions of the UDO and she thought the requirement for connecting to sewer should be within a quarter mile. She believed this would bring reputable developers to the community who would do their fair share.
- She otherwise thought it was a great project, like the single family homes, and did not mind the one-acre parcels.

Teena Meadors presented the following:

- She owned the lot to the south and had a 25 foot easement on her north border for Road 3 North which would give them 50 feet.

Mayor Miller closed the Public Hearing.

Council discussed the following:

- Continuing the item to at least the August 22, 2023 meeting.

MOVED by Councilmember John McCafferty, seconded by Councilmember Robert Schacherer to continue Resolution 2023-933 to the August 22, 2023 meeting with specific directions as given by the Town Manager to Town staff.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

NAY: Councilmember Tom Armstrong

6 - 1 PASSED

d) *Item Added*

Public hearing, consideration and possible action regarding Resolution No. 2023-1232, intent to form a Maintenance Improvement District, and action regarding Resolution No. 2023-1233, ordering work for the Maintenance Improvement District located approximately 500 feet south of intersection of East Perkinsville Road and Salida Del Sol on the west side.

Recommended Action: i) Hold public hearing ii) Approve Resolution No. 2023-1232 and Resolution No. 2023-1233

Laurie Lineberry, Development Services Director, presented the following:

- This item was regarding the formation of a Maintenance Improvement District (MID) which was very similar to the Street Lighting Improvement District but was for the maintenance of all the drainage facilities, basins, and landscaping in three subdivisions that were adjacent to each other.
- The subdivisions were Salida del Sol south of Perkinsville.
- The first year, the developer would pay for the maintenance. In the following years, the Town would come up with an estimate on the costs and would come before Council during the budgeting process.
- This district would be in place of an HOA and would be funded by their property taxes and would only cover the cost to maintain the subdivisions.
- The developer was available for questions.

Council and Staff discussed the following:

- Council inquired as to the administrative costs of doing this every year.
 - Staff stated that it would be miniscule and would not be worth charging. There were only 25 lots. The Town was able to charge a 2-3% administrative fee.
- Council inquired as to who would be doing the maintenance.
 - Staff stated the developer would be doing it the first year. The second year, the Town would hire someone based on the cost of the maintenance from the prior year. If contractors wanted to charge more, the Town would increase the amount the following year.
- Council asked how often they would be doing maintenance.
 - Staff did not know the answer to that but assumed at least once per month. This was the first time the Town had done an MID and would have to be a test run. They would be working with the developer and checking the subdivisions and notifying him if staff felt the area needed more frequent maintenance. This would also guide the Town in estimating costs for the following year.

Mayor Miller opened the Public Hearing.

Erin Deskins, Town Clerk, indicated that there were no requests to speak on this item.

Mayor Miller closed the Public Hearing.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong to approve Resolutions 2023-1232 and 2023-1233.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

7) ADJOURNMENT

MOVED by Councilmember Sherri Phillips, seconded by Vice-Mayor Eric Granillo to adjourn the meeting at 6:55 p.m.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

7 - 0 PASSED - Unanimously

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the _____ day of _____, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2023.

Erin N. Deskins, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

6. a.

Meeting Date: 08/22/2023
Contact Person: Chuck Wynn, Police Chief
Department: Police
Estimated length of staff presentation: 5 minutes
Physical location of item: n/a

AGENDA ITEM TITLE:

Consideration and possible action to approve the Intergovernmental Service Agreement with the Chino Valley Unified School District for a School Resource Officer.

RECOMMENDED ACTION:

Approve the Intergovernmental Service Agreement with the Chino Valley Unified School District for a School Resource Officer.

SITUATION AND ANALYSIS:

The purpose of this Intergovernmental Service Agreement is to provide for the implementation of a School Resource Officer position at Chino Valley High School by arranging for a Town police officer to serve as a School Resource Officer to, among other things, provide law-related education to students at Chino Valley High School as a guest instructor, provide in-service instruction to the faculty and staff, attend school-related functions, and address calls for police service from the school during school hours that would normally require a response from regular patrol officers (or respond to other needs as outlined by a Police Supervisor).

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 01-60-5135
Available:
Funding Source:

The District will reimburse up to 1,760 hours of salary and benefits not to exceed the amount awarded to the District by the Arizona Department of Education School Safety Grant.

Attachments

AGR - SRO IGA with CVUSD
 Grant application

INTERGOVERNMENTAL SERVICE AGREEMENT FOR A SCHOOL RESOURCE OFFICER

Chino Valley Unified School District Town of Chino Valley

THIS INTERGOVERNMENTAL SERVICE AGREEMENT (hereinafter “Agreement”), entered into as of August 14, 2023, by and between the TOWN OF CHINO VALLEY, a municipal corporation of Arizona (hereinafter “Town”), and the CHINO VALLEY UNIFIED SCHOOL DISTRICT NO. 51 OF YAVAPAI COUNTY, ARIZONA, a unified school district and political subdivision of the State of Arizona (hereinafter “District”).

WITNESSETH

WHEREAS, A.R.S. § 15-341 (A)(5) authorizes school district governing boards to prescribe the curricula for the promotion and graduation of pupils; and

WHEREAS, A.R.S. § 15-341(A)(16) authorizes school district governing boards to provide for adequate supervision over pupils in instructional and non-instructional activities by certificated or non-certificated personnel; and

WHEREAS, A.R.S. § 9-240(B)(12) authorizes town councils to prescribe the powers and duties of police officers; and

WHEREAS, A.R.S. § 11-952 authorizes two or more public agencies (including towns and school districts) to contract for services or jointly exercise any powers common to the contracting parties if the agreement meets certain requirements set forth in § 11-952; and

WHEREAS, the District and the Town have jointly participated in arranging for a School Resource Officer for schools in the District to provide law-related education as a guest instructor, in-service instruction to faculty and staff, attendance at school functions, and response to service calls during school hours; and

WHEREAS, the District Governing Board and the Town Council find that this Agreement complies with each of the requirements of A.R.S. § 11-952 and is otherwise consistent with the health, safety, and welfare needs of the community.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the District hereby agree as follows:

Section 1 Terms of Agreement; Renewals. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until August 13, 2024, with two automatic one-year renewals. However, either party may provide written notice of its intent not to

renew or continue this Agreement for the subsequent year to the other party no later than 60 days prior to the end of the then-current term.

Section 2 Purpose. The purpose of this Agreement is to provide for the implementation of a School Resource Officer position at Chino Valley High School by arranging for a Town police officer to serve as a School Resource Officer to, among other things, provide law-related education to students at Chino Valley High School as a guest instructor, provide in-service instruction to the faculty and staff, attend school-related functions, and address calls for police service from the school during school hours that would normally require a response from regular patrol officers (or respond to other needs as outlined by a Police Supervisor).

Section 3 Performance. The performance commitments of the respective parties are as follows:

The District shall:

- (a) provide necessary space for the assigned School Resource Officer, including secured office space at Chino Valley High School;
- (b) coordinate scheduling with the assigned officer and their Town supervisors;
- (c) instruct teachers, administrators, and staff on how to assist the School Resource Officer as needed;
- (d) provide regular evaluations of the effectiveness and ongoing needs of the School Resource Officer;
- (e) provide the School Resource Officer with access to necessary audio-visual, computer, and related equipment; and
- (f) provide the School Resource Officer with training to enhance their ability to serve the students and staff.

The Town shall:

- (a) ensure through its Police Department that the qualified officer of its choice is made available as School Resource Officer. In so doing, the Police Department shall make every effort to find qualified substitutes or make arrangements to reschedule classes if the officer is unavailable for any reason;
- (b) ensure that the assigned police officer is appropriately attired and presents a professional image;
- (c) ensure that the assigned police officer is properly trained and oriented to fulfill the requirements of the position;
- (d) allow the assigned police officer the time to:

- (1) properly prepare for classroom presentations;
- (2) informally interact with pupils outside of class; and
- (3) participate in District staff orientation, faculty meetings, and in-service activities;
- (e) provide necessary supervision and evaluation of the assigned officer's performance so as to ensure an adequate level of performance; and
- (f) use funds provided by the District to defray the costs of providing this police officer to the District.

Section 4 Budgeting and Financing. The District and the Town shall each provide for their own costs under this Agreement, except that the District shall reimburse up to 1760 hours of the salary and benefits for the School Resource Officer not to exceed the amount awarded to the District by the Arizona Department of Education School Safety Grant. The District and the Town shall each include in their annual budgets the necessary appropriations to meet the cost of their respective performances hereunder. In the event the salary and/or benefits of the respective officers are raised by the Town beyond customary increases (i.e., cost of living, merit, and/or benefit increases) during the term of this Agreement, any additional amounts shall be paid by the Town. Payments shall be made at times and in increments mutually agreed to by the parties, but no more often than quarterly.

Section 5 Termination. This Agreement may be terminated by either party for any reason whatsoever, effective upon receipt of written notice. In the event of termination prior to the full term of this Agreement, if the District has paid to the Town the salary amount set forth in Section 4 above, the Town shall prorate said amount based on the remaining term of this Agreement and shall return the unearned portion to the District within 60 calendar days. In the event of termination prior to the full term of this Agreement, if the District has not yet paid the salary amount set forth in Section 4 above, the District shall prorate said amount based on the remaining term of this Agreement and shall pay the earned portion to the Town within 60 calendar days.

Section 6 Indemnification. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnatee") for, from, and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

Section 7 Independent Contractor; Workers' Compensation. Nothing herein is intended to create a partnership or joint venture between the parties, nor does it create an employment relationship between the personnel of the Town's Police Department and the District. Rather, the assigned personnel of the Town's Police Department are independent contractors for purposes of Article 2, Chapter 7, Title 12, Arizona Revised Statutes. Solely for workers' compensation purposes, A.R.S. § 23-1022(D) and (E) shall apply, and the Town shall be solely

liable for the payment of workers' compensation benefits for the assigned police officer providing services under this Agreement. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-1022 in substantially the following form:

All employees are hereby further notified that they may be required to work under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

Section 8 Notices. All notices provided in connection with this Agreement shall be in writing and shall be deemed to have been sufficiently delivered or served when presented personally or upon the third day after being deposited in the United States mail, postage prepaid, by registered or certified mail, addressed as follows:

District: Chino Valley Unified School District No. 51
650 East Center Street
Chino Valley, AZ 86323
Attn: Superintendent

Town: Chino Valley Police Department
202 N State Route 89
Chino Valley, AZ 86323
Attn: Police Chief

Section 9 Further Instruments. Each party hereto shall, promptly upon the request of the other, have acknowledged and delivered to the other any and all further instruments and assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement.

Section 10 Amendment and Construction. This Agreement sets forth the entire understanding of the parties as to the matters set forth herein as of the date of this Agreement and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by each of the parties hereto. This Agreement is intended to reflect the mutual intent of the parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any party.

Section 11 Conflict of Interest. This Agreement may be canceled pursuant to A.R.S. § 38-511 in the event of a conflict of interest as described therein.

Section 12 Legal Arizona Workers Act Compliance. Both parties hereby warrant that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to their employment of their employees, and with the requirements of A.R.S. § 23-214 (together, the "State and Federal Immigration Laws"). A breach of the foregoing warranty shall be deemed a material breach of this Agreement, and the parties shall have the right to terminate this Agreement for such a breach (in addition to any other applicable remedies). The parties retain the legal right to inspect the papers of each contractor, subcontractor, or employee of either who

performs work pursuant to this Agreement to verify performance of the foregoing warranty of compliance with the State and Federal Immigration Laws.

Section 13 Mediation and Arbitration. Any controversy or claim arising out of, or relating to, this Agreement or the breach thereof will be addressed by mediation and then, if necessary, by binding arbitration. If the parties cannot agree to the selection of a single Mediator, each will select a proposed Mediator, and the proposed Mediators will select a third, impartial mediator. This third Mediator shall become the Mediator for the dispute or disputes. The Mediator will then conduct a Mediation. If the Mediation is unsuccessful, then the Mediator will become the Arbiter, who will issue a binding decision. The parties agree that the decision can then be entered by a Court as a final judgment, and the parties expressly waive all right to trial by jury of any and all disputes which might arise in relation to this Agreement or the professional relationship between them.

Section 14 Applicable Law. The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Arizona. The courts of the State of Arizona shall have jurisdiction over any action arising out of this Agreement and over the parties, and the venue shall be the Yavapai County Superior Court, Yavapai County.

Section 15 FERPA Compliance. Both parties will ensure that the dissemination and disposition of educational records comply at all times with the Family Educational Rights and Privacy Act of 1974 and any subsequent amendments thereto.

(SIGNATURES ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized representatives.

“Town”

TOWN OF CHINO VALLEY, a municipal corporation of Arizona

Jack W. Miller, Mayor

The forgoing Agreement has been submitted to me as Chino Valley Town Attorney for review prior to its execution, pursuant to A.R.S. § 11-952(D), and I have determined that it is in proper form and is within the powers and authority granted to the Town under the laws of Arizona.

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PC

“District”

CHINO VALLEY UNIFIED SCHOOL DISTRICT NO. 51 OF YAVAPAI COUNTY, ARIZONA, a unified school district and political subdivision of the State of Arizona,

President, Governing Board

The forgoing Agreement has been submitted to me as Attorney for the Chino Valley Unified School District No. 51 of Yavapai County, Arizona, for review prior to its execution, pursuant to A.R.S. § 11-952(D), and I have determined that it is in proper form and is within the powers and authority granted to the Town under the laws of Arizona.

Attorney for Chino Valley USD #51

things is stable.
means is
financially

District Administration Contact Information

Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New
Grantee SRO JPO - Year 1 - Rev 0 - Contact Information – Program

DISTRICT / CHARTER ADMINISTRATOR INFORMATION

The purpose of this section is to provide district/charter administrator contact information. It is imperative that this contact information is kept current.

This information will be used for School Safety Program correspondence, including program and training related communication to after Q1

1. District/Charter Administrator Contact Information:

District/Charter Administrator First Name:

John

District/Charter Administrator Last Name:

Scholl

Title:

Superintendent

Mailing Address:

650 E. Center Street

City:

Chino Valley

State:

AZ

Zip Code:

86323

* Please note - amounts budgeted
for officers were a "guestimate" -

Phone Number:

9286362458

Email Address:

jscholl@chinovalleyschools.com

Change in District/Charter Administrator Information during the FY 2023

Contact Information Revised as of:



Assurances
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - Assurances
District/Charter Holder Administrator Assurance
* 1. Program Requirements & Guidance: As the District/Charter Administrator, I agree that I have read the School Safety Program guidance and requirements, which are available on the School Safety Program website (https://www.azed.gov/ssp/school-safety-program-grantees), and that the site-level administrators have also read the documents.
* 2. Training Requirements: I further understand that the following School Safety Program participants - district administrator, site administrator, school resource officer or juvenile probation officer, and/or agency supervisor - have an annual training requirement. If each participant's annual training requirement is not met, funding will be withheld for the LEA or charter holder the following school year until the prior year's training requirement has been met. I further agree that the site-level teams understand this requirement.
* 3. Program Implementation: As the District/Charter Administrator, I agree to communicate in a timely fashion information I receive from the SSP Team to the site-level teams to ensure that all parties are conversant with the program requirements, expectations, and opportunities.
* 4. Contact Information Updates: As the District/Charter Administrator, I agree to keep contact information updated as changes in position(s) occur.
* 5. Reimbursement Requests: As the District/Charter Administrator, I agree to provide the required supplemental expenditure documentation to be uploaded with all reimbursement requests.
6. Awarded Positions: a. If the grant recipient is applying for a school resource officer, the grant recipient understands that "officer" means a peace officer or a full-authority reserve peace officer who is certified by the Arizona Peace Officer Standards and Training Board. b. The grant recipient agrees that the awarded position - school resource officer, juvenile probation officer - shall serve only that site(s) awarded funding.

✓ * **7. Site Visits:** The grant recipient understands that ADE may visit school districts and charter schools that submit program proposals to verify the information contained in the program proposals.

✓ * **8. Reporting and Evaluation:** The grant recipient agrees to comply with all reporting requirements and to participate in ADE School Safety Program evaluations.

9. Personally Identifiable Information (PII):

✓ * a. The grant recipient understands that Personally Identifiable Information (PII) will not be collected through the School Safety Program. All grant program evaluation data will be collected in the aggregate and will be used, shared, and stored in compliance with ADE's privacy and security policies and procedures.

✓ * b. The grant recipient understands that documents submitted must not contain any PII student or educator information, including names, identification numbers, or anything that could identify an individual. All data should be referenced/included in the aggregate and the aggregate counts should be redacted to remove small numbers under 16 for students and 5 for staff.

FFATA & GSA Verification	
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - FFATA & GSA Verification	
1. The district/organization has submitted OR will be submitting the annual General Statement of Assurance	☒ * Yes
2. The district/organization understands that if ADE is not updated with the organization's current SAM.gov information, including registration expiration, that funding for the organization can be placed on hold.	☒ * Yes
* 3. Please provide a short description of your project in one to two paragraphs: We are requesting two SROs, one for Del Rio Elementary School and one for Chino Valley High School.	

Budget													
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)													
☐ By checking this box the LEA is waiving allocation for this grant and acknowledges that choosing to waive this grant will result in the reallocation of these funds.													
Indirect Cost Total Allocation \$92,200.00 Budgeted Amount (Contributing to Indirect Cost) \$92,200.00 Excludable Costs \$0.00 Indirect Cost Rate 4.61% Max Indirect Cost based on Budgeted Amount \$4,063.11 Max Indirect Cost based on Total Allocation \$4,063.11													
Budget By Function Codes <table border="1"> <thead> <tr> <th>Object Code</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>6100 - Salaries</td> <td>\$0.00</td> </tr> <tr> <td>6200 - Employee Benefits</td> <td>\$0.00</td> </tr> <tr> <td>6300 - Purchased Professional Services</td> <td>\$92,200.00</td> </tr> <tr> <td>6400 - Services</td> <td>\$0.00</td> </tr> <tr> <td>6500 - Other Purchased Services</td> <td>\$0.00</td> </tr> </tbody> </table>		Object Code	Total	6100 - Salaries	\$0.00	6200 - Employee Benefits	\$0.00	6300 - Purchased Professional Services	\$92,200.00	6400 - Services	\$0.00	6500 - Other Purchased Services	\$0.00
Object Code	Total												
6100 - Salaries	\$0.00												
6200 - Employee Benefits	\$0.00												
6300 - Purchased Professional Services	\$92,200.00												
6400 - Services	\$0.00												
6500 - Other Purchased Services	\$0.00												

6600 - Supplies		\$0.00
6731 - Supplies (Under \$5,000)		\$0.00
6732 - Supplies (Under \$5,000)		\$0.00
6734 - Supplies (Under \$5,000)		\$0.00
6735 - Supplies (Under \$5,000)		\$0.00
6737 - Supplies (Under \$5,000)		\$0.00
6738 - Supplies (Under \$5,000)		\$0.00
6733 - Capital (\$5,000 or Above)		\$0.00
6736 - Capital (\$5,000 or Above)		\$0.00
6739 - Capital (\$5,000 or Above)		\$0.00
6800 - Other Expenses		\$0.00
6910 - Indirect Cost Recovery		\$0.00
0190 - Capital Outlay		\$0.00
Total		\$92,200.00
Adjusted Allocation		\$92,200.00
Remaining		\$0.00

Budget Detail						
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)						
Indirect Cost						
Total Allocation		\$92,200.00				
Budgeted Amount (Contributing to Indirect Cost)		\$92,200.00				
Excludable Costs		\$0.00				
Indirect Cost Rate		4.61%				
Max Indirect Cost based on Budgeted Amount		\$4,063.11				
Max Indirect Cost based on Total Allocation		\$4,063.11				
6300 - Purchased Professional Services - \$92,200.00 ▼						
Object Code	Function Code	Project Time (FTE)	Quantity	Salary, Rental, or Unit Cost	Line Item Total	
6300 - Purchased Professional Services	2100,2200,2600,2700 - Support Services (Students, Instr., Operation, Transport.) ▼		1.00	\$92,200.00	\$92,200.00	
Narrative Description						
1 SRO purchased service from Chino Valley Police Department, Town of Chino Valley						
Officer salary \$70,000 + ERE/Health \$22,200 = \$92,200						
Total for 6300 - Purchased Professional Services					\$92,200.00	

Total for all other Object Codes	\$0.00
Total for all Object Codes	\$92,200.00
Adjusted Allocation	\$92,200.00
Remaining	\$0.00

Budget Overview			
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)			
Object Code	Function Code	2100,2200,2600,2700 - Support Services (Students, Instr., Operation, Transport.)	Total
6300 - Purchased Professional Services		92,200.00	92,200.00
Total		92,200.00	92,200.00
	Adjusted Allocation		92,200.00
	Remaining		0.00



School Safety Program-New Grantee SRO JPO - Year 1 School Allocations

Chino Valley Unified District (130251000) Public District - FY 2023 - **Low Risk** - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)

Grant Applicant	Current Allocation	Carryover Allocation	Total Allocation	Budget Amount
Chino Valley High School	\$92,200.00	\$0.00	\$92,200.00	\$92,200.00

Site Information
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)
Site Information - The purpose of this section is to provide site level information.
Site Information
* Site Name: Chino Valley High School
* Site Level: ☒ High School ☐ Middle School ☐ Elementary School ☐ Other (please explain below)
Please describe site type if you selected "other" above.
* Mailing Address: 760 E. Center Street
* City: Chino Valley
* Zip: 86323
* State AZ
* Average Daily Membership: 787.9

Joint Site Information

If a joint site is being selected, please refer to the **FY 2023 SSP - New Grantee SRO JPO - Year 1** application instructions for further assistance.

Is there a joint site?

☒ No, there is no joint site.

☐ Yes, there is a joint site.

* Joint Site Name:

* Joint Site Level:

☐ High School ☐ Middle School ☐ Elementary School ☐ Other (please describe below)

Please describe site type if you selected "other" above.

* Joint Site Mailing Address:

* Joint Site City:

* Joint Site State:

* Joint Site Zip:

* Joint Site Average Daily Membership:

Site Administration Contact Information

Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)

Site Administrator Contact Information - The purpose of this section is to provide site level information. The Site Administration contact person must be the school principal or a designee (assistant principal, dean of students, etc.)

The purpose of this section is to provide site-level information.

- The Site Administrator is the principal or principal's designee (assistant principal, dean of students, etc.), whoever works most directly with the officer, school counselor, or school social worker, and is primarily responsible for implementing the School Safety Program on this campus.

- Information must be kept current.

- Changes in contact information are done by initiating a Revision, editing the existing contact information, and providing the date of change.

1. Site Level Administrator Contact Information

* Site Level Administrator First Name:

Heidi

* Site Level Administrator Last Name:

Wolf

* Site Level Administrator Title:

☒ Principal ☐ Designee - Assistant Principal ☐ Designee - Dean of Students ☐ Other (please describe below)

Please describe site administrator title if you selected "other" above.

If designee is selected, please provide Principal's name:

* Site Level Administrator Phone Number:

9285835598

* Site Level Administrator Email Address:

hwolf@chinovalleyschools.com

Change in Site Administrator Information

Contact Information Revised as of:



2. Is there a joint site?

☒ No, there is no joint site.

☐ Yes, there is a joint site.

* Joint Site Administrator First Name:

* Joint Site Administrator Last Name:

* Joint Site Administrator Title:

☐ Designee - Assistant
Principal

☐ Designee - Dean of
Students

☐ Other (please describe
below)

Please describe joint site administrator title if you selected "other" above.

If designee is selected, please provide Principal's name:

14

* Joint Site Administrator Phone Number:

* Joint Site Administrator Email Address:

If contact information changes, please provide date of change.



Site Award Contact Information

Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)

Officer, School Counselor, or Social Worker Contact Information

Please select the awarded position and provide contact information.

SRO/JPO

1. Officer Information - The purpose of this section is to provide Officer contact information. It is imperative that this contact information is kept current.

* Officer First Name: _____

To Be

* Officer Last Name: _____

Determined

* Officer Type:

☒ SRO ☐ JPO

* Officer's School Phone Number: _____

[9286363842

* Officer's School Email: _____

hwolf@chinovalleyschools.com

* Officer's Police Agency: _____

Chino Valley Police Department

* Officer's Badge Number: _____

00000

* Officer's Years of Experience as an SRO/JPO: _____

00

Contact Information Revised as of: _____

2. Agency Supervisor Information - The purpose of this section is to provide Agency Supervisor contact information. It is imperative that this contact information is kept current.

– IMPORTANT: Change(s) in any contact information below must be updates by initiating a Revision, editing existing contact information and providing date of change.

* Agency Supervisor's First Name: _____

Deana

* Agency Supervisor's Last Name: _____

Winn

* Agency Supervisor's Title: _____

Sergeant

* Agency Supervisor's Police Agency: _____

Chino Valley Police Department

Agency Supervisor's Phone Number: _____

[9287100962

* Agency Supervisor's Email Address: _____

dwinn@chinoaz.net

* Agency Supervisor's Years of Experience as an SRO/JPO Supervisor: _____

5

If contact information changes, please provide date of change: _____

3. Multiple Officer Information:

If you are using multiple officers to fill one FTE position at this school, please enter the officer contact information below

Officer's First Name	Officer's Last Name	Officer Type	Email Address	Phone Number
		☐ SRO ☐ JPO		

4. Change in Officer:

Officer Name:	Begin Date:	End Date:	Reason (please select one reason)	Officer Type
			Reassignment Retirement School Request for Change Injury/Illness Promotion Other (please describe)	Please select.... ▼

5. Summer/Intersession

Will the officer be serving only this site for more than 10 months?

☐ No, the officer will be serving this site for 10 or fewer months.

☒ Yes, this officer will be serving this site for 11 or 12 months.

* How many months of service will be provided?

☐ 11 months ☒ 12 months

* Will teachers and students be present during the summer break or intersession?

☐ Yes ☒ No

What duties will the officer perform? (check all that apply).

☒ Implement LRE

☒ Conduct school safety assessments

☒ Review and update school safety plan

☒ Provide/attend school in-service training

☒ Attend professional development training

☒ Analyze and develop strategies to address campus related criminal incidents

☐ Other (please specify in description)

* Provide a detailed description, around each item indicated above, of the summer/intersession plan that has been developed between the site administrator, officer, and agency supervisor.

The officer will be conducting a school safety assessment that includes: points of entry, procedures for student check-in/out, parking lot threat assessment, perimeter threat assessment, and review of school safety plan with school and district teams. Further, the office will attend annual training including firearms and school safety related. The office will provide training for administrators and all staff. Finally, the officer will review incident reports and will develop plans to reduce/eliminate incidents on campus.

Site Program Narrative Questions

Chino Valley Unified District (130251000) Public District - FY 2023 - **Low Risk** - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)

SITE PROGRAM NARRATIVE QUESTIONS

SECTION 1:

* 1. Is the SRO/JPO your first or second position?

First Position ▼

2. If you are applying for an **SRO or JPO** as your second position, enter the estimated salary and benefits for the **second position**.

Estimated Salary	\$	
Estimated Benefits	\$	
Enter Position Status	Please select... ▼	

Next Steps

- If you are applying for an SRO or JPO as your first or only position, complete Section 2
- If you are applying for an SRO or JPO as your **second position**, complete Section 3. Please note that **second position requests cannot be considered until after all first position requests have been considered**.

SECTION 2: Complete this section if you are applying for a **SRO or JPO as your first or only position.**

1. Provide a detailed description of the safety needs of the school. At a minimum, please include data that illustrates safety issues, gaps and weaknesses in prevention and intervention resources available in your school community, and target population(s) to be served.

Chino Valley High School currently has a classified employee who is a retired police officer who serves as our Student Safety and Support Supervisor. Chino Valley currently has 769 students: 54% male, 46% female, 34% Hispanic, 62% White, and 4% from other groups. Sixteen percent of our students our Special Education Students and 6% are Limited English Proficient. The district has one SRO but the majority of their time is spent at the middle school. Our 2021-2022 discipline data shows that we had the following occurrences: 30 - Tobacco/Nicotine Vape Devices; 15 - vape device, 9 - marijuana, 10 fighting; 4 - Vandalism, 4 - Bullying/Harassment; 2 - Threats & Intimidating, 1 Consumption of Alcohol, and 1 - Assault. On our most recent student survey in December 2022, 43% of our students who answered the question "The School makes decisions to keep us safe" responded we only did this "somewhat" or "never". The current SRO has done some training as time allows for safety issues but we are in need increasing the student's perception that we are making decisions to keep them safe and also to increase prevention and intervention resources for students for drug and vaping issues that have increased over the last two years. The preventative preemptive nature of security, aside from building and hard improvements, is where CVHS+ is lacking primarily. While we are currently staffed with a variety of personnel who address student needs and matters that might otherwise lead to security and safety issues, including the principal, two assistant principals , and Student Safety Support Supervisor, the need for a full-time SRO on campus would be invaluable for the purpose of providing intervention, coping, and serve as a resource to staff and students. This could, and research has shown it to be able to, curtail outbursts, actions, and activities that lead to security and safety issues on campus related to both individual students and the collective student body as a whole.

2. Describe a plan to use a trained school resource officer or juvenile probation officer in the school. At a minimum, address the following:

- a. The grant requires the formation of a site-level multidisciplinary school safety team, known as the School Safety Assessment and Prevention Team (SSAPT). If you are applying for an officer, the team must consist of, at a minimum, a school principal or assistant principal, a School Safety Program officer, a school prevention coordinator or a school mental/behavioral health expert, and other members as needed. In working towards the program requirements, describe the titles or positions of member roles of the existing or newly formed team and how the team will accomplish the following:

i. Describe the titles or positions of member roles of the existing or newly formed team:

CVHS will form a site-level multidisciplinary school safety team, known as the School Safety Assessment and Prevention Team (SSAPT). The team will consist of the high school principal, assistant principal, the School Safety Program officer, teacher, classified staff member and a counselor. The team will meet quarterly to ensure that the plan is followed and on target.

ii. Use ongoing needs assessment results in determining the use of the officer consistent with program requirements.

At our quarterly meetings, we will revisit our initial Data Story to provide updates regarding progress. We will review the goals of our program and implemented activities. We will have the SRO share the activities completed in the prior two months to determine progress toward our goals for reducing discipline infractions, improving inter-personal relationships, increased knowledge and healthy lifestyle behaviors among students, and reducing truancy. This will also help make sure the SRO is assigned duties that directly correlated to the program goals.

iii. Coordinate efforts of the SSP with other safety and drug/violence prevention programs at the school.

The SSAPT will ensure collaboration with other agencies in our community such as MATFORCE, Spectrum, The Office of the Attorney General Community Outreach, Bridges, Polara, and My Future AZ. We will also work with our local police department and our SRO to provide LRE. Coordinated efforts will be reviewed quarterly.

iv. Provide for continuous improvement of the program.

A proposed SRO will collaborate with, and be a point of contact for the school, with community resources related to preventative safety as well as overall well-being of students. Those organizations will include, but not limited to: - MATFORCE - CVUSD Homeless Liaison - Big Brother/ Big Sisters - Polara Health Services - Spectrum Health Services - Yavapai County Educational Services Agency - Chino Valley Police Department (CVPD) - Chino Valley High School site counselors

b. Outline the school's plan for implementing a law-related education (LRE) program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy.

CVHS will implement law-related education into career preparation (9th grade) and social studies (10th-11th grade classes) at least twice a year. This will ensure that law-related education is available to every student. This will also ensure that all students get to know the SRO and enforce the importance of safety at CVHS. Also, the

SRO will be asked to present on information to help prevent substance abuse (nicotine and marijuana) on our campus. Parents will be able to meet the SRO at our Meet the Teacher Night before school starts, Spanish Speaking Family Night, Future Freshman Information Night and other school events. Also, the SRO on the campus of CVHS, in cooperation and collaboration with other staff on campus, would be for all, but not limited to, the following pursuits (in the pursuit of supporting students in both individual and small group settings, during times of heightened stress or transition, in individual critical situations). Some of those situations would include: (2) drug, alcohol, and tobacco risks and abatement, (2) students who are experiencing on campus/ in class disciplinary issues, (3) issues relating to bullying and cyberbullying (4) de-escalating critical issues (5) positive and productive behavior supports on campus, (6) positive academic and social interaction (6) healthy mental and physical lifestyle choices (7) issues related to chronic tardiness or absenteeism and (8) community services support and connection

c. Describe other ways you plan on using the officer, which may include prevention and intervention strategies.

The SSAPT will ensure collaboration with other agencies in our community such as MATFORCE, West Yavapai Guidance Clinic, Big Brothers/Big Sisters, and Polara Health. We will work with Yavapai County Education Services Agency for coordinated services to students and training opportunities for staff. We will also work with Chino Valley Police Department and to provide LRE related to safety and community support. Coordinated efforts will be reviewed quarterly.

3. Describe the specific collaborative activities you envision the position you are applying for will engage in with other services, supports, and resources at your school to help improve school safety

a. Describe how the officer will be introduced and integrated into the school environment so that the officer will meet the LRE requirements, be a resource to the school community, and a positive role model to the school. This should include facilitating the officer's collaboration and communication with school personnel on school-wide safety, climate, and prevention strategies.

The officer will work closely with our counseling department, school leadership team, department chair meetings to help improve school safety. They will be introduced at our first staff meeting at the beginning of the school year that happens prior to the first day with students. Students will be introduced at our Student Handbook assembly which every student attends during the first two weeks of school. Other opportunities for inclusion within our school community will be the introduction of our SRO at our Site Council meeting. They will also be invited to our monthly staff meetings and professional development days to share prevention strategies. school-wide safety, climate, and prevention strategies. The SRO will be integrated into the school environment by: (1) Being a

presence on campus and take opportunities being a positive role model to (2) interact with students in non-academic times such as the passing period and lunch, (3) Be a part of training staff with de-escalating techniques, (4) Train and support staff on Safety Procedures and Protocols, and (5) Instruct mini-lessons in classrooms - Law Related Education on topics ranging from substance abuse to constitutional law.

b. The methods used for evaluating the effectiveness of the officer plan.

The effectiveness of the SRO on campus will be evaluated utilizing a variety of datapoints including, but not necessarily limited to: - discipline referral data to include types of infractions and motivations therein - numbers and types of referrals to outside agencies, including law enforcement - attendance/ truancy referrals and data - professional attendance at/ student and community points of contact outside of school and meetings with students (assemblies, information nights, etc.) - Staff, parent, and student feedback through surveys. - The principal and assistant principal will meet regularly with the officer to evaluate the plan and make any necessary adjustments and give feedback - The principal will evaluate the SRO twice a year in conjunction with the Chino Valley Police Department.

4. Describe a plan for hiring, collaborating, and sustaining the officer's position that includes the following:

a. Describe the strategies your school will use to recruit and provide a timely hire of the position for which you are applying and to ensure the continuity of the position(s) over the three-year period.

. Chino Valley Unified School District will work in conjunction with the Chino Valley Police Department to select the candidate for the SRO position. The applicants will be viewed by the administration team at CVHS to narrow the selection and determine candidates to interview. The administration team in collaboration with Chino Valley Police Department, will hold interviews to hire for this position. This position will be monitored for effectiveness toward goals of educating students so they can make good choices with the ultimate goal of them becoming great citizens and positive contributors to society. The school will monitor program implementation by meeting quarterly to review that the goals for the program are on target and to make any needed adjustments.

b. Describe how your school will collaboratively monitor program implementation and supervise this position and work towards keeping positions for the duration of this grant cycle.

This position will be supervised by the School Principal. The principal will meet monthly with the SRO to ensure that they are on target with our plan and answer any questions. They will also work closely with the two assistant principals on planning emergency drills and sharing safety concerns at CVHS. The SRO will work full-time over twelve months.

c. Officers are expected to be on campus (SROs 80%, JPOs 90%) of the time and cannot be utilized for special assignments such as SWAT and caseloads. Describe how your school and agency will collaboratively ensure the office is present and available on campus during their duty hours and according to program requirements.

The SRO will be a part of our school community and will have scheduled activities throughout the day. Concerns and outreach will come from staff, students and families and many times not on a specific schedule, so flexibility is expected. The SRO will work full-time over twelve months.

d. Itemize in-kind contributions your school will provide to this program. Include items such as office furniture, office space, computers, and supplies.

CVHS will provide office space, office furniture which includes a desk, chair, filing cabinet, a computer, a school two-way radio, and any other supplies needed by the SRO to complete their duties. The SRO will have access to our student data system, which provides not only schedules for students but also parent/family information. Supplies for all planned activities will be provided by CVHS or institute involved in the activity.

NOTE: Submit a Cooperative Agreement Signature Page and Statement of Officer Salary and Benefits. A Service Agreement (Internal Service Agreement, Intergovernmental Agreement, or Memorandum of Understanding) will be required between the Local Education Agency (LEA) and the law enforcement/probation department within 30 days of when the officer begins work at the school. The agreement shall be kept on file at each funded school for review during a site visit conducted by ADE.

SECTION 3: Complete this section if you are applying for an **SRO OR JPO as your second position**

1. If your **second position request is the same as your first position** (e.g., second position is an SRO, and first position is an SRO), describe (a) the school's need for the same two positions and (b) how both positions will be integrated at the school.

2. If your **second position is different from your first position** (e.g., second position is an SRO, and first position is a school counselor or school social worker), complete Questions a - d.

a. Provide a detailed description of the safety needs of the school. At a minimum, please include data that illustrates safety issues, gaps and weaknesses in prevention and intervention resources available in your school community, and target population(s) to be served.

b. Describe a plan to use a trained school resource officer or juvenile probation officer in the school. At a

minimum, address the following:

i. The grant requires the formation of a site-level multidisciplinary school safety team, known as the School Safety Assessment and Prevention Team (SSAPT). If you are applying for an officer, the team must consist of, at a minimum, a school principal or assistant principal, a School Safety Program officer, a school prevention coordinator or a school mental/behavioral health expert, and other members as needed. In working towards the program requirements, describe the titles or positions of member roles of the existing or newly formed team and how the team will accomplish the following:

1. Describe the titles or positions of member roles of the existing or newly formed team:
2. Use ongoing needs assessment results in determining the use of the officer consistent with program requirements.
3. Coordinate efforts of the SSP with other safety and drug/violence prevention programs at the school; and
4. Provide for continuous improvement of the program.

ii. Outline the school's plan for implementing a law-related education (LRE) program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy.

iii. Describe other ways you plan on using the officer, which may include prevention and intervention strategies.

c. Describe the specific collaborative activities you envision the position you are applying for will engage in with other services, supports, and resources at your school to help improve school safety.

i. Describe how the officer will be introduced and integrated into the school environment so that the officer will meet the LRE requirements, be a resource to the school community, and a positive role model to the

school. This should include facilitating the officer's collaboration and communication with school personnel on school-wide safety, climate, and prevention strategies.

ii. The methods used for evaluating the effectiveness of the officer plan.

d. Describe a plan for hiring, collaborating, and sustaining the officer's position that includes the following:

- i. Describe the strategies your school will use to recruit and provide a timely hire of the position for which you are applying and to ensure the continuity of the position(s) over the three-year period.
- ii. Describe how your school will collaboratively monitor program implementation and supervise this position and work towards keeping positions for the duration of this grant cycle.
- iii. Officers are expected to be on campus (SROs 80%, JPOs 90%) of the time and cannot be utilized for special assignments such as SWAT and caseloads. Describe how your school and agency will collaboratively ensure the office is present and available on campus during their duty hours and according to program requirements.
- iv. Itemize in-kind contributions your school will provide to this program. Include items such as office furniture, office space, computers, and supplies.

NOTE: Submit a Cooperative Agreement Signature Page and Statement of Officer Salary and Benefits. A Service Agreement (Internal Service Agreement, Intergovernmental Agreement, or Memorandum of Understanding) will be required between the Local Education Authority (LEA) and the law enforcement/probation department within 30 days of when the officer begins work at the school. The agreement shall be kept on file at each funded school for review during a site visit conducted by ADE.

Related Documents		
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Chino Valley High School (130251203) - Public School - New - Application Number (62)		
ALL INFORMATION SUBMITTED TO ADE IS PUBLIC INFORMATION. Organizations uploading documents to GME must ensure that the information contained in the document does not include sensitive data such as student information, social security numbers, or any other information that could constitute a FERPA violation. Submission of such documents will result in delay of approval or other action in GME until the document is removed.		
Optional Documents		
Type	Document Template	Document/Link
School Safety Program – Statement of Salary and Benefits	N/A	
School Safety Program - Cooperative Agreement	 FY24CooperativeAgreement_Optional	 CVHS Cooperative agreement
Other	N/A	

Budget	
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)	
☐ By checking this box the LEA is waiving allocation for this grant and acknowledges that choosing to waive this grant will result in the reallocation of these funds.	
Indirect Cost Total Allocation \$92,200.00 Budgeted Amount (Contributing to Indirect Cost) \$92,200.00 Excludable Costs \$0.00 Indirect Cost Rate 4.61% Max Indirect Cost based on Budgeted Amount \$4,063.11 Max Indirect Cost based on Total Allocation \$4,063.11	
* This position - DRS - will be changed to Salary/benefits once Town of Chino approves LEA -	
<u>Budget By Function Codes</u>	
Object Code	Total
6100 - Salaries	\$0.00
6200 - Employee Benefits	\$0.00
6300 - Purchased Professional Services	\$92,200.00
6400 - Services	\$0.00
6500 - Other Purchased Services	\$0.00

6600 - Supplies		\$0.00
6731 - Supplies (Under \$5,000)		\$0.00
6732 - Supplies (Under \$5,000)		\$0.00
6734 - Supplies (Under \$5,000)		\$0.00
6735 - Supplies (Under \$5,000)		\$0.00
6737 - Supplies (Under \$5,000)		\$0.00
6738 - Supplies (Under \$5,000)		\$0.00
6733 - Capital (\$5,000 or Above)		\$0.00
6736 - Capital (\$5,000 or Above)		\$0.00
6739 - Capital (\$5,000 or Above)		\$0.00
6800 - Other Expenses		\$0.00
6910 - Indirect Cost Recovery		\$0.00
0190 - Capital Outlay		\$0.00
Total		\$92,200.00
Adjusted Allocation		\$92,200.00
Remaining		\$0.00

Budget Detail						
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)						
Indirect Cost						
Total Allocation		\$92,200.00				
Budgeted Amount (Contributing to Indirect Cost)		\$92,200.00				
Excludable Costs		\$0.00				
Indirect Cost Rate		4.61%				
Max Indirect Cost based on Budgeted Amount		\$4,063.11				
Max Indirect Cost based on Total Allocation		\$4,063.11				
6300 - Purchased Professional Services - \$92,200.00 ▼						
Object Code	Function Code	Project Time (FTE)	Quantity	Salary, Rental, or Unit Cost	Line Item Total	
6300 - Purchased Professional Services	2100,2200,2600,2700 - Support Services (Students, Instr., Operation, Transport.) ▼		1.00	\$92,200.00	\$92,200.00	
Narrative Description						
1 SRO purchased service from Chino Valley Police Department, Town of Chino Valley						
Officer salary \$70,000 + ERE/Health \$22,200 = \$92,200						
Total for 6300 - Purchased Professional Services					\$92,200.00	

Total for all other Object Codes	\$0.00
Total for all Object Codes	\$92,200.00
Adjusted Allocation	\$92,200.00
Remaining	\$0.00

Budget Overview			
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)			
Object Code	Function Code	2100,2200,2600,2700 - Support Services (Students, Instr., Operation, Transport.)	Total
6300 - Purchased Professional Services		92,200.00	92,200.00
Total		92,200.00	92,200.00
	Adjusted Allocation		92,200.00
	Remaining		0.00

School Safety Program-New Grantee SRO JPO - Year 1 School Allocations				
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)				
Grant Applicant	Current Allocation	Carryover Allocation	Total Allocation	Budget Amount
Del Rio Elementary School	\$92,200.00	\$0.00	\$92,200.00	\$92,200.00

Site Information

Chino Valley Unified District (130251000) Public District - FY 2023 - **Low Risk** - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)

Site Information - The purpose of this section is to provide site level information.

Site Information

* Site Name:

Del Rio Elementary School

* Site Level:

☐ High School ☐ Middle School ☒ Elementary School ☐ Other (please explain below)

Please describe site type if you selected "other" above.

* Mailing Address:

1036 N. Road 1 West

* City:

Chino Valley

* Zip:

86323

* State

AZ

* Average Daily Membership:

480.4

Joint Site Information

If a joint site is being selected, please refer to the **FY 2023 SSP - New Grantee SRO JPO - Year 1** application instructions for further assistance.

Is there a joint site?

☒ No, there is no joint site.

☐ Yes, there is a joint site.

* Joint Site Name:

* Joint Site Level:

☐ High School ☐ Middle School ☐ Elementary School ☐ Other (please describe below)

Please describe site type if you selected "other" above.

* Joint Site Mailing Address:

* Joint Site City:

* Joint Site State:

* Joint Site Zip:

* Joint Site Average Daily Membership:

Site Administration Contact Information

Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)

Site Administrator Contact Information - The purpose of this section is to provide site level information. The Site Administration contact person must be the school principal or a designee (assistant principal, dean of students, etc.)

The purpose of this section is to provide site-level information.

- The Site Administrator is the principal or principal's designee (assistant principal, dean of students, etc.), whoever works most directly with the officer, school counselor, or school social worker, and is primarily responsible for implementing the School Safety Program on this campus.

- Information must be kept current.

- Changes in contact information are done by initiating a Revision, editing the existing contact information, and providing the date of change.

1. Site Level Administrator Contact Information

* Site Level Administrator First Name:

Dr. Ed

* Site Level Administrator Last Name:

Moody

* Site Level Administrator Title:

- ☒ Principal ☐ Designee - Assistant Principal ☐ Designee - Dean of Students ☐ Other (please describe below)

Please describe site administrator title if you selected "other" above.

If designee is selected, please provide Principal's name:

* Site Level Administrator Phone Number:

9286364414

* Site Level Administrator Email Address:

emoody@chinovalleyschools.com

Change in Site Administrator Information

Contact Information Revised as of:



2. Is there a joint site?

☒ No, there is no joint site.

☐ Yes, there is a joint site.

* Joint Site Administrator First Name:

* Joint Site Administrator Last Name:

* Joint Site Administrator Title:

☐ Designee - Assistant Principal

☐ Designee - Dean of Students

☐ Other (please describe below)

Please describe joint site administrator title if you selected "other" above.

If designee is selected, please provide Principal's name:

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Site Award Contact Information

Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)

Officer, School Counselor, or Social Worker Contact Information

Please select the awarded position and provide contact information.

SRO/JPO

1. Officer Information - The purpose of this section is to provide Officer contact information. It is imperative that this contact information is kept current.

* Officer First Name: _____

To Be

* Officer Last Name: _____

Determined

* Officer Type:

☒ SRO ☐ JPO

* Officer's School Phone Number: _____

9286363842

* Officer's School Email: _____

emoody@chinovalleyschools.com

* Officer's Police Agency: _____

Chino Valley Police Department

* Officer's Badge Number: _____

00000

* Officer's Years of Experience as an SRO/JPO: _____

00

Contact Information Revised as of: _____

2. Agency Supervisor Information - The purpose of this section is to provide Agency Supervisor contact information. It is imperative that this contact information is kept current.

– IMPORTANT: Change(s) in any contact information below must be updates by initiating a Revision, editing existing contact information and providing date of change.

* Agency Supervisor's First Name: _____

Deana

* Agency Supervisor's Last Name: _____

Winn

* Agency Supervisor's Title: _____

Sergeant

* Agency Supervisor's Police Agency: _____

Chino Valley Police Department

Agency Supervisor's Phone Number: _____

9287100962

* Agency Supervisor's Email Address: _____

dwinn@chinoaz.net

* Agency Supervisor's Years of Experience as an SRO/JPO Supervisor: _____

5

If contact information changes, please provide date of change: _____

3. Multiple Officer Information:

If you are using multiple officers to fill one FTE position at this school, please enter the officer contact information below

Officer's First Name	Officer's Last Name	Officer Type	Email Address	Phone Number
		☒ SRO ☐ JPO		

4. Change in Officer:

Officer Name:	Begin Date:	End Date:	Reason (please select one reason)	Officer Type
			Reassignment Retirement School Request for Change Injury/Illness Promotion Other (please describe)	Please select...

5. Summer/Intersession

Will the officer be serving only this site for more than 10 months?

☐ No, the officer will be serving this site for 10 or fewer months.

☒ Yes, this officer will be serving this site for 11 or 12 months.

* How many months of service will be provided?

☐ 11 months ☒ 12 months

* Will teachers and students be present during the summer break or intersession?

☐ Yes ☒ No

What duties will the officer perform? (check all that apply).

- ☒ Implement LRE
- ☒ Conduct school safety assessments
- ☒ Review and update school safety plan
- ☒ Provide/attend school in-service training
- ☒ Attend professional development training
- ☒ Analyze and develop strategies to address campus related criminal incidents
- ☐ Other (please specify in description)

* Provide a detailed description, around each item indicated above, of the summer/intersession plan that has been developed between the site administrator, officer, and agency supervisor.

The officer will be conducting a school safety assessment that includes: points of entry, procedures for student check-in/out, parking lot threat assessment, perimeter threat assessment, and review of school safety plan with school and district teams. Further, the officer will attend annual training including firearms and school safety related. The office will provide training for administrators and all staff. Finally, the officer will review incident reports and will develop plans to reduce/eliminate incidents on campus.

Site Program Narrative Questions

Chino Valley Unified District (130251000) Public District - FY 2023 - **Low Risk** - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)

SITE PROGRAM NARRATIVE QUESTIONS

SECTION 1:

* 1. Is the SRO/JPO your first or second position?

First Position ▼

2. If you are applying for an **SRO or JPO** as your second position, enter the estimated salary and benefits for the **second position**.

Estimated Salary	\$	
Estimated Benefits	\$	
Enter Position Status	Please select... ▼	

Next Steps

- If you are applying for an SRO or JPO as your first or only position, complete Section 2
- If you are applying for an SRO or JPO as your **second position**, complete Section 3. Please note that **second position requests cannot be considered until after all first position requests have been considered.**

SECTION 2: Complete this section if you are applying for a **SRO or JPO as your first or only position.**

1. Provide a detailed description of the safety needs of the school. At a minimum, please include data that illustrates safety issues, gaps and weaknesses in prevention and intervention resources available in your school community, and target population(s) to be served.

The school safety needs of Del Rio Elementary School (DRS) are numerous, as is ubiquitous nationwide. Many of the school safety needs are already being addressed through a variety of factors, but with each having deficiencies. Related specifically to our campus - Perimeter fencing and security enclosure of the campus has been addressed, with the need for increased monitoring of the perimeter through increased personnel or video surveillance yet to be addressed. - Security personnel is being addressed partially with the town of Chino Valley providing an SRO for the district at large, but his presence on campus is not continuous daily, based on the needs of individual campuses in the district. Hence, to alleviate the gap in an SRO not being on campus, a need of the school is a full-time security guard, SRO, or presence. - The preventative preemptive nature of security, aside from building and hard improvements, is where DRS is lacking primarily. While we are currently staffed with a variety of personnel who address student needs and matters that might otherwise lead to security and safety issues, including the principal, dean of students, and specific behavior coach, the need for a full-time SRO on campus would be invaluable for the purpose of providing intervention, coping, and serve as a resource to counseling services for students. This could, and research has shown it to be able to, curtail outbursts, actions, and activities that lead to security and safety issues on campus related to both individual students and the collective student body as a whole. This intervention, and addition to the campus staff, would aid and target students specifically struggling with issues related to mental health and family issues, but also be a resource to the overall student population related to coping mechanisms and strategies focused on maintaining a positive mental approach to academics and life.

2. Describe a plan to use a trained school resource officer or juvenile probation officer in the school. At a minimum, address the following:

- a. The grant requires the formation of a site-level multidisciplinary school safety team, known as the School Safety Assessment and Prevention Team (SSAPT). If you are applying for an officer, the team must consist of, at a minimum, a school principal or assistant principal, a School Safety Program officer, a school prevention coordinator or a school mental/behavioral health expert, and other members as needed. In working towards the program requirements, describe the titles or positions of member roles of the existing or newly formed team and how the team will accomplish the following:

i. Describe the titles or positions of member roles of the existing or newly formed team:

Our SSAPT will consist of: the school principal, the assistant principal/ dean of students, our SRO, the classified behavior coach, the alternative education teacher, the school nurse, and the special education director. The regular education teacher may be included as the situation warrants. Our employees are all community members in our small, rural community. Due to the confidential nature of issues discussed, we do not believe having a parent or other type of community member would be appropriate for our SSAPT as we are a small, rural community where many people are very familiar with each other.

ii. Use ongoing needs assessment results in determining the use of the officer consistent with program requirements.

At our monthly meetings, we will revisit our initial Data Story to provide updates regarding progress. We will review the goals of our program and implemented activities. We will have the SRO share the activities completed in the prior two weeks to determine progress toward our goals for reducing discipline infractions, improving inter-personal relationships, increased knowledge and healthy lifestyle behaviors among students, and reducing truancy. This will also help make sure the SRO is assigned duties that directly correlated to the program goals.

iii. Coordinate efforts of the SSP with other safety and drug/violence prevention programs at the school.

The SSAPT will ensure collaboration with other agencies in our community such as MATFORCE,, Spectrum, The Office of the Attorney General Community Outreach, Bridges, Polara, and My Future AZ. We will also work with our local police department and our SRO to provide LRE. Coordinated efforts will be reviewed monthly.

iv. Provide for continuous improvement of the program.

A proposed SRO will collaborate with, and be a point of contact for the school, with community resources related to preventative safety as well as overall well-being of students. Those organizations will include, but not limited to: MATFORCE Boys and Girls club Big Brother/ Big sisters Polara health services Spectrum health services Yavapai county educational services agency Chino Valley Police Department (CVPD) Chino Valley Unified School district (CVUSD) site counselors

b. Outline the school's plan for implementing a law-related education (LRE) program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy.

The SRO on the campus of DRS, in cooperation and collaboration with other staff on campus, would be used for all, but not limited to, the following pursuits (in the pursuit of supporting students in both individual and small

group settings, during times of heightened stress or transition, in individual critical situations). - drug, alcohol, and tobacco risks and abatement - students who are experiencing on campus/ in class disciplinary issues - issues relating to bullying and cyberbullying - de-escalating critical issues - positive and productive behavior supports on campus - positive academic and social interaction - healthy mental and physical lifestyle choices - issues related to chronic tardiness or absenteeism - community services support and connection

c. Describe other ways you plan on using the officer, which may include prevention and intervention strategies.

The SSAPT will ensure collaboration with other agencies in our community such as MATFORCE, West Yavapai Guidance Clinic, Boys and Girls Club, Big Brothers/Big Sisters, and Polara Health. We will work with Yavapai County Education Services Agency for coordinated services to students and training opportunities for staff. We will also work with Chino Valley Police Department and to provide LRE related to safety and community support. Coordinated efforts will be reviewed monthly.

3. Describe the specific collaborative activities you envision the position you are applying for will engage in with other services, supports, and resources at your school to help improve school safety

a. Describe how the officer will be introduced and integrated into the school environment so that the officer will meet the LRE requirements, be a resource to the school community, and a positive role model to the school. This should include facilitating the officer's collaboration and communication with school personnel on school-wide safety, climate, and prevention strategies.

. The SRO will be integrated into the school environment by: - Being a presence on campus and take opportunities being a positive role model to interact with students in non-academic times such as recess and lunch - Be a part of training staff with de-escalating techniques - Train and support staff on Safety Procedures and Protocols - Instruct mini-lessons in classrooms - Law Related Education on topics ranging from substance abuse to constitutional law

b. The methods used for evaluating the effectiveness of the officer plan.

The effectiveness of the SRO on campus will be evaluated utilizing a variety of data points including, but not necessarily limited to: - discipline referral data to include types of infractions and motivations therein - numbers and types of referrals to outside agencies, including law enforcement - attendance/ truancy referrals and data - professional attendance at/ student and community points of contact outside of school and meetings with students (assemblies, information nights, etc.)

4. Describe a plan for hiring, collaborating, and sustaining the officer's position that includes the following:

- a. Describe the strategies your school will use to recruit and provide a timely hire of the position for which you are applying and to ensure the continuity of the position(s) over the three-year period.

Chino Valley School District will advertise for this position providing specific qualifications. The applicants will be viewed by the SSAPT to narrow the selection and determine candidates to interview. The SSAPT, in collaboration with Chino Valley Police Department, will hold interviews to hire for this position. This position will be monitored for effectiveness toward goals of educating students so they can make good choices with the ultimate goal of them becoming great citizens and positive contributors to society.

- b. Describe how your school will collaboratively monitor program implementation and supervise this position and work towards keeping positions for the duration of this grant cycle.

This position will be supervised by the School Principal. Instruction is the surface level part of the program while the developing and applying the teachings is the deeper part and the real key of the program; which can only develop over time as relationships grow and positive role models have a foundation of trust and influence.

- c. Officers are expected to be on campus (SROs 80%, JPOs 90%) of the time and cannot be utilized for special assignments such as SWAT and caseloads. Describe how your school and agency will collaboratively ensure the office is present and available on campus during their duty hours and according to program requirements.

The SRO will be a part of our school community and will have scheduled activities throughout the day. Concerns and outreach will come from staff, students and families and many times not on a specific schedule, so flexibility is expected.

- d. Itemize in-kind contributions your school will provide to this program. Include items such as office furniture, office space, computers, and supplies.

The SRO will have an office space with office furniture, computer and supplies. The SRO will have access to our student data system, which provides not only schedules for students but also parent/family information. Supplies for all planned activities will be provided by DRS or institute involved in the activity.

NOTE: Submit a Cooperative Agreement Signature Page and Statement of Officer Salary and Benefits. A Service Agreement (Internal Service Agreement, Intergovernmental Agreement, or Memorandum of Understanding) will be required between the Local Education Agency (LEA) and the law enforcement/probation department within 30 days of when the officer begins work at the school. The agreement shall be kept on file at each funded school for review during a site visit conducted by ADE.

SECTION 3: Complete this section if you are applying for an **SRO OR JPO as your second position**

1. If your **second position request is the same as your first position** (e.g., second position is an SRO, and first position is an SRO), describe (a) the school's need for the same two positions and (b) how both positions will be integrated at the school.

2. If your **second position is different from your first position** (e.g., second position is an SRO, and first position is a school counselor or school social worker), complete Questions a - d.

a. Provide a detailed description of the safety needs of the school. At a minimum, please include data that illustrates safety issues, gaps and weaknesses in prevention and intervention resources available in your school community, and target population(s) to be served.

b. Describe a plan to use a trained school resource officer or juvenile probation officer in the school. At a minimum, address the following:

i. The grant requires the formation of a site-level multidisciplinary school safety team, known as the School Safety Assessment and Prevention Team (SSAPT). If you are applying for an officer, the team must consist of, at a minimum, a school principal or assistant principal, a School Safety Program officer, a school prevention coordinator or a school mental/behavioral health expert, and other members as needed. In working towards the program requirements, describe the titles or positions of member roles of the existing or newly formed team and how the team will accomplish the following:

1. Describe the titles or positions of member roles of the existing or newly formed team:
2. Use ongoing needs assessment results in determining the use of the officer consistent with program requirements.
3. Coordinate efforts of the SSP with other safety and drug/violence prevention programs at the school; and
4. Provide for continuous improvement of the program.

ii. Outline the school's plan for implementing a law-related education (LRE) program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy.

iii. Describe other ways you plan on using the officer, which may include prevention and intervention strategies.

c. Describe the specific collaborative activities you envision the position you are applying for will engage in with other services, supports, and resources at your school to help improve school safety.

i. Describe how the officer will be introduced and integrated into the school environment so that the officer will meet the LRE requirements, be a resource to the school community, and a positive role model to the school. This should include facilitating the officer's collaboration and communication with school personnel on school-wide safety, climate, and prevention strategies.

ii. The methods used for evaluating the effectiveness of the officer plan.

d. Describe a plan for hiring, collaborating, and sustaining the officer's position that includes the following:

i. Describe the strategies your school will use to recruit and provide a timely hire of the position for which you are applying and to ensure the continuity of the position(s) over the three-year period.

ii. Describe how your school will collaboratively monitor program implementation and supervise this position and work towards keeping positions for the duration of this grant cycle.

iii. Officers are expected to be on campus (SROs 80%, JPOs 90%) of the time and cannot be utilized for special assignments such as SWAT and caseloads. Describe how your school and agency will collaboratively ensure the office is present and available on campus during their duty hours and according to program requirements.

iv. Itemize in-kind contributions your school will provide to this program. Include items such as office

furniture, office space, computers, and supplies.

NOTE: Submit a Cooperative Agreement Signature Page and Statement of Officer Salary and Benefits. A Service Agreement (Internal Service Agreement, Intergovernmental Agreement, or Memorandum of Understanding) will be required between the Local Education Authority (LEA) and the law enforcement/probation department within 30 days of when the officer begins work at the school. The agreement shall be kept on file at each funded school for review during a site visit conducted by ADE.

Related Documents		
Chino Valley Unified District (130251000) Public District - FY 2023 - Low Risk - School Safety Program-New Grantee SRO JPO - Year 1 - Rev 0 - School Safety Program-New Grantee SRO JPO - Year 1 - Del Rio Elementary School (130251101) - Public School - New - Application Number (63)		
ALL INFORMATION SUBMITTED TO ADE IS PUBLIC INFORMATION. Organizations uploading documents to GME must ensure that the information contained in the document does not include sensitive data such as student information, social security numbers, or any other information that could constitute a FERPA violation. Submission of such documents will result in delay of approval or other action in GME until the document is removed.		
Optional Documents		
Type	Document Template	Document/Link
School Safety Program – Statement of Salary and Benefits	N/A	
School Safety Program - Cooperative Agreement	 FY24CooperativeAgreement_Optional	 DRS School Safety Agreement
Other	N/A	



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

6. b.

Meeting Date: 08/22/2023
Contact Person: Frank Marbury, Public Works Director/Town Engineer
Department: Public Works
Estimated length of staff presentation: None
Physical location of item: 2208 Equestrian Way

AGENDA ITEM TITLE:

Consideration and possible action to approve the Cooperative Purchasing Agreement with Modular Solutions, Ltd., to purchase a modular office building for the Public Works Streets Division for an amount not to exceed \$314,495.55.

RECOMMENDED ACTION:

Approve the Cooperative Purchasing Agreement with Modular Solutions, Ltd., to purchase a modular building for the Public Works Streets Division for an amount not to exceed \$314,495.55.

SITUATION AND ANALYSIS:

The Streets Division is in need of a new office building at Old Home Manor. The proposed modular building is 24'x50' and includes two offices, two restrooms, a kitchenette, and a large open conference area. The vendor will install the building with the exception of site grading and utility connections.

Fiscal Impact

Fiscal Impact?: Yes
If Yes, Budget Code: 02-78-5465
Available: 314,495.55
Funding Source:
 \$400,000 was included in the FY 2023/2024 budget.

Attachments

Agreement

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
MODULAR SOLUTIONS, LTD.**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of August 22, 2023, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Modular Solutions, Ltd., an Arizona corporation (the “Contractor”).

RECITALS

A. After a competitive procurement process, the State of Arizona (the “State”) entered into Contract No. CTR057393, dated September 28, 2021, as amended by Contract Amendment No. 1 dated September 28, 2022 (together, the “State Contract”), for the Contractor to provide commercial modular/pre-engineered buildings, materials, and services. A copy of the State Contract is attached hereto as Exhibit A and incorporated herein by reference to the extent not inconsistent with this Agreement.

B. The Town is permitted to purchase such materials and services under the State Contract, at its discretion and with the agreement of the awarded Contractor.

C. The Town and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the State Contract and this Agreement, (ii) establishing the terms and conditions by which the Contractor may provide the Town with commercial modular/pre-engineered buildings, materials, and services, as more particularly set forth in Section 2 below (the “Materials and Services”), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Materials and Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2024 (the “Term”), unless terminated as otherwise provided in this Agreement or the State Contract. The terms and conditions of the State Contract are incorporated herein and shall survive the termination or expiration thereof.

2. Scope of Work. The Contractor shall provide the Materials and Services under the terms and conditions of the State Contract and as more particularly set forth in the Quote attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. All Materials and Services are subject to final inspection and acceptance by the Town. Materials failing to conform to the requirements of this Agreement or the State Contract will be held at the Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Upon discovery of non-conforming Materials or Services, the Town may elect to do any or all of the following by written notice to the Contractor: (i) waive the non-conformance; (ii) stop the work immediately; or (iii) bring Materials or Service into compliance and withhold the cost of same from any payments due to the Contractor.

4. Compensation. The Town shall pay the Contractor an amount not to exceed \$314,495.55 for Materials and Services at the unit rates set forth in the Quote.

5. Payments. The Town shall pay the Contractor monthly, based upon acceptance and delivery of Materials or Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall (i) contain a reference to this Agreement and the State Contract and (ii) document and itemize all work completed to date. The invoice statement shall include a record of Materials delivered, time expended, and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the State Contract will be subject to rejection and may be returned.

6. Safety Plan. The Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute, and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, The Contractor shall notify the Town, in writing, describing the reasons a safety plan is unnecessary. The Town reserves the right to request a safety plan following such notification.

7. Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under Section 8 below, the Contractor's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any of the Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (i) evaluation and verification of any invoices, payments, or claims based on the Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (ii) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 8 below. To the extent necessary for the Town to audit Records as set forth in this Section, the Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to the Contractor pursuant to this Agreement. The Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this Section. The Town shall give the Contractor or its subcontractors reasonable advance notice of intended audits. The Contractor shall require its subcontractors to comply with the provisions

of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

8. E-Verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-Verify requirements under ARIZ. REV. STAT. § 23-214(A). The Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

9. Israel. To the extent ARIZ. REV. STAT. § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in and agree to not engage in for the duration of this Agreement, a "boycott" of goods or services from Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

10. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

11. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona, and a suit pertaining to this Agreement may be brought only in courts in Yavapai County, Arizona.

12. Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then-current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose, and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep the Contractor informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. The Contractor hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

13. Conflicting Terms. In the event of any inconsistency, conflict, or ambiguity among the terms of this Agreement, including any amendments, the State Contract, and invoices, the documents shall govern in that order.

14. Rights and Privileges. To the extent provided under the State Contract, the Town shall be afforded all of the rights and privileges afforded to the State and shall be the "State" (as

defined in the State Contract) for the purposes of the portions of the State Contract that are incorporated herein by reference.

15. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 14 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to the State to the extent provided under the State Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Contractor's obligation to provide the indemnification and insurance. In any event, the Contractor shall indemnify and hold harmless the Town and each council member, officer, employee, or agent thereof (the Town and any such person being herein called an "Indemnified Party") for, from, and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Contractor, its officers, employees, agents, or any tier of subcontractor in connection with the Contractor's work or services in the performance of this Agreement.

16. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town	Town of Chino Valley 202 North State Route 89 Chino Valley, Arizona 86323 Attn: Town Manager
With copy to:	GUST ROSENFELD P.L.C. One East Washington Street, Suite 1600 Phoenix, Arizona 85004-2553 Attn: Andrew J. McGuire
If to Contractor:	Modular Solutions, Ltd. PO Box 15507 Phoenix, Arizona 85060 Attn: Lorenzo Chavez

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the

date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

17. Forced Labor of Ethnic Uyghurs. To the extent applicable under ARIZ. REV. STAT. § 35-394, the Contractor warrants and certifies that it does not currently, and agrees that it will not for the duration of this Agreement use the forced labor, any goods or services produced by the forced labor, or any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. If the Contractor becomes aware that it is not in compliance with this paragraph, it shall notify the Town of the noncompliance within five business days of becoming aware of it. If the Contractor fails to provide a written certification that it has remedied the noncompliance within 180 days after that, this Agreement shall terminate unless the termination date of this Agreement occurs before the end of the remedy, in which case this Agreement terminates on the contract termination date.

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

“Town”

TOWN OF CHINO VALLEY,
an Arizona municipal corporation

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

“Contractor”

MODULAR SOLUTIONS, LTD.,
an Arizona corporation

By:_____

Name:_____

Title:_____

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
MODULAR SOLUTIONS, LTD.

[State Contract]

See following pages.

	Solicitation Amendment 1		Arizona Department of Administration General Services Division 1400 W. Washington St, Suite B200 Phoenix, AZ 85007	
	Solicitation No.: BPM003812			Page 1 of 1
	Description: Commercial Modular/Pre-Engineered Buildings			
	Date 8/31/2021			
Solicitation Amendment No.: 1				

Pursuant to the Information for Offerors, Item 2.6., Solicitation Amendments, the above referenced solicitation shall be amended as follows:

ATTACHMENTS

1. Sign In - Commercial Modular & Pre-Engineered Building
2. Remove BPM003812 RFP Commercial Modular Pre-Manufactured Offices
 Replace with BPM003812 RFP Commercial Modular Pre-Manufactured Offices 8-31-21

Changes

- a. Replace the word "Supplier" with "Contractor" in sections:

- i. Section 2-B

1. Section 2.1
2. Section 2.1.3

- ii. Section 2-C

1. Sample Questionnaire 2; Section 1.1

- b. Section 2-A: Scope of Work

- i. Remove and Replace Section 4.1 General Scope

The following is a list of suggested (but not limited to) categories.

- ii. Remove section 4.1.8

- c. Section 2-C Secondary Contractor Selection for a Project
Added a clarification in the description.

These sample attachments are examples of a Secondary Selection Questionnaire. Individual projects will use project specific questionnaires.

- d. Table of Contents – Titling was corrected.

ACKNOWLEDGEMENT

ACKNOWLEDGEMENT OF SOLICITATION AMENDMENT SHALL BE DONE ELECTRONICALLY PRIOR TO OFFER DUE DATE AND TIME. All other all terms, conditions, specifications and amendments to the Solicitation remain unchanged.

ADOA General Services Division

Solicitation Name: Commercial Modular/Pre-Engineered Buildings
Solicitation: BPM003812

Pre-Offer Conference

Location:
Online Google Meet
Pre-Offer Conference - Commercial
Modular/Pre-Engineered Buildings
Wednesday, August 25 · 10:00 – 11:00am

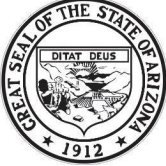
SIGN IN SHEET
DATE: 8/25/2021
10:00am (Arizona Time)

Google Meet joining info
Video call link:
<https://meet.google.com/ter-dufx-iof>

Or dial: (US) +1 470-273-8484
PIN: 673 340 845#

Please Sign In

Name	Signature	Company	Email	Phone Number
Greg McClanahan	<i>Greg McClanahan</i>	Homes Direct	greg@homes.direct	480-407-4494
Donna Smith	<i>Donna Smith</i>	Grail Construction, LLC	info@grailconstruction.com	520-790-1715 ext 5
Fred Kinzer		Colton Constructors		
Leondo Benally	<i>Leondo Benally</i>	Woodruff Construction	leondo.benally@woodruffaz.com	928-527-4138
Randy Rostron		Colton Constructors		

	Request for Proposal Solicitation No. BPM003812 Description: Commercial Modular/Pre-Engineered Buildings	Arizona Department of Administration General Services Division 100 North 15th Avenue, Suite 103 Phoenix, AZ 85007
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Section 1:
Solicitation Summary

1.0 What the State Is Soliciting

The Arizona Department of Administration, General Services Division (the State), as authorized under A.R.S. § 41-2501 is seeking to establish a Statewide contract to provide Turn-Key Commercial Modular/Pre-Engineered Buildings.

The State is seeking proposals from Commercial Modular/Pre-Engineered Buildings Contractors to be pre-qualified through an as-needed Commercial Modular/Pre-Engineered Buildings Contract. Contractors selected through this RFP, and are awarded a subsequent contract (Commercial Modular/Pre-Engineered Buildings Base Contract) with the State.

Commercial Modular/Pre-Engineered Buildings Contracting consists of up to 2 main elements:

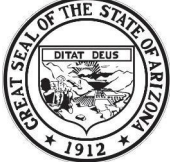
- **RFP for qualification determination:** This Solicitation (Commercial Modular/Pre-Engineered Buildings Base Contract) will define and formalize the role of the Contractor.
- **Secondary Selection Process:** The secondary process will be used to make final selection of an Contractor resulting in a Task Order to the Commercial Modular/Pre-Engineered Buildings Base Contract for a specific turn-key Buildings(s) proposal.

The State anticipates awarding multiple Contracts for providing these services, though it reserves the right to issue one or multiple contract awards.

OFFERORS SHOULD READ THE ENTIRE SOLICITATION CAREFULLY.

2.0 What's in the Solicitation

	Section 1: Solicitation Summary
	Section 2-A: Scope of Work
	Section 2-B: Pricing Document
	Section 2-C: Secondary Contractor Selection for a Project
	Section 2-D: Special Terms and Conditions
	Section 2-E: Uniform Terms and Conditions
	Section 3-A: Instructions to Offerors
	Section 3-B: Offer forms (Attachments)

	Request for Proposal Solicitation No. BPM003812 Description: Commercial Modular/Pre-Engineered Buildings	Arizona Department of Administration General Services Division 100 North 15th Avenue, Suite 103 Phoenix, AZ 85007
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3.0 How and When Proposals Are Due

DUE DATE AND TIME: Offers shall be received until 3:00 P.M. (Arizona Time), September 9, 2021

Proposers shall copy and save APP attachments to their own computer, save the information entered, and submit the completed information as a new, appropriately renamed Attachment in APP. APP will not save information entered directly on the attachments.

Proposals will only be accepted **online in the “The State’s e-Procurement System”** at <https://app.az.gov> until the “**Bid/Offer Due Date**” indicated in **The State’s e-Procurement System for the Solicitation No. shown at the top of this page**. Proposals must be in the General Services Division’s possession online no later than that deadline.

Submit technical inquiries about navigating and/or submitting proposals in the State’s e-Procurement System to the State’s e-Procurement System Help Desk:

- by phone at (602) 542-7600, option2; or
- by email to app@azdoa.gov

LATE PROPOSALS WILL NOT BE CONSIDERED. No extension or grace period will be given for delays or incomplete proposals caused by internet connectivity problems, file uploading difficulties, or misunderstanding of the requirements or procedures for online submission in The State’s e-Procurement System.

4.0 Pre-Offer Conference

The State **WILL** conduct a Pre-Offer Conference for this Solicitation at the time and place indicated in the solicitation’s ‘**Process**’ field as found within the State’s e-Procurement system, The State’s e-Procurement System (<https://app.az.gov>); attendance is **optional but encouraged**. Refer to paragraph 2.7 of the Instructions to Offerors for more information.

5.0 Inquiries

Any question related to this Request for Proposal shall be submitted utilizing the State’s “**Discussion Forum**” Tab in the e-procurement system. The Offeror shall not contact or ask questions of the department for which the requirement is being procured.

End of Section 1



Request for Proposal

Solicitation No.
BPM003812

Description:
Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration

General Services Division

100 North 15th Avenue, Suite 103
Phoenix, AZ 85007

2: Scope, Pricing and Terms and Conditions

Table of Contents

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SECTION 2-D: SPECIAL TERMS AND CONDITIONS	13
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Request for Proposal

Solicitation No.
BPM003812

Description:
Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration

**General Services
Division**

100 North 15th Avenue, Suite 103
Phoenix, AZ 85007

SECTION 2-A: Scope of Work

1. Purpose and Background

- 1.1. The State of Arizona Department of Administration, General Services Division invites sealed proposals for a Developer to provide all transportation, delivery, labor, material, equipment, general conditions, overhead and profit, quality control, and permitting for turn-key Commercial Modular/Pre-Engineered Buildings.
- 1.2. The purpose of this Commercial Modular/Pre-Engineered Buildings Base Contract is to provide the Developer the ability to be chosen in a secondary selection process to provide a Specific Project Proposal on behalf of the State. Should the State accept the Proposal, the Developer's Project Proposal may be considered for Award.
- 1.3. The State is looking for responses for developing the following types of buildings.
 - Pre-Manufactured Buildings
 - Pre-Engineered Buildings
 - Modular Buildings

1. Introduction

- 1.1. The State is seeking the services of multiple, qualified, Commercial Modular/Pre-Engineered Buildings Developers that specialize in the design, supply and install services.
- 1.2. Each company awarded an Commercial Modular/Pre-Engineered Buildings Base Contract (hereinafter referred to as "Contractor") will be expected to comply with the terms herein as part of any and all Task Order Project Proposals entered into under this Commercial Modular/Pre-Engineered Buildings Base Contract.
- 1.3. The State seeks to establish Commercial Modular/Pre-Engineered Buildings Contracts with Contractor(s) that have an established presence and possess comprehensive knowledge/experience of the principles, techniques, and trends in Commercial Modular/Pre-Engineered Buildings full turn-key supply and install services.

2. RFP Selection Process

This RFP is intended to establish a Commercial Modular/Pre-Engineered Buildings Contract. Respondents will be awarded by committee scoring detailed in Section 3-A Instructions to Offerors 6.5 Evaluation Criteria.

	Evaluation Criteria	Max Points
	Offeror Information Questionnaire - Attachment 2-A	300
	Experience and Organizational Profile - Attachment 2-B	200
	Method Proposal – Attachments 3-A & 3-B	300
	Cost – Items Tab in APP	200



Request for Proposal

Solicitation No.
BPM003812

Description:
Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration

General Services Division
100 North 15th Avenue, Suite 103
Phoenix, AZ 85007

3. Secondary Selection Process

3.1. Selection of a Project

- 3.1.1. The State of Arizona will use a secondary Contractor specific task order selection process (Section 4 of this solicitation) to select a specific contractor to complete Project Proposal which may lead to an award of a project for the State of Arizona.
- 3.1.2. The decision of whether to enter into an agreement shall be at the sole discretion of the State of Arizona.
- 3.1.3. Refer to Section 2-C Secondary Contractor Selection for a Project for further information.

4. SCOPE REQUIREMENTS

4.1. GENERAL SCOPE

The following is a list of suggested (but not limited to) categories. List all categories you are responding with. The Contract should allow for purchase of buildings as well as rental and or lease.

- 4.1.1. Portable Buildings
 - 4.1.1.1. Constructed off site, transported to the site in two or more separate units, assembled on site providing one complete unit capable of being disassembled and/or relocated as one unit.
- 4.1.2. Modular Buildings
 - 4.1.2.1. A building built in three-dimensional sections (or modules) in a factory environment. Smaller sections or modules are constructed separately at the factory using conventional commercial wall, floor roof, and ceiling materials. All major systems including mechanical, electrical, plumbing and finishes are completed prior to shipping and installation at the site in semi-permanent or permanent condition.
- 4.1.3. Pre-engineered Metal / Hardwall Buildings
 - 4.1.3.1. Structural systems such as clearspan rigid frame, modular rigid frame, tapered beam, lean-to and others in standard or long span options. Pre-engineered buildings can be designed to virtually any desired dimension to achieve the optimal design solution for customers building requirements.
- 4.1.4. Classrooms
 - 4.1.4.1. Portable Classroom solutions, Permanent Education Solutions, Green Education Solutions and Childcare Solutions
- 4.1.5. Mobile Offices
 - 4.1.5.1. Constructed on a chassis, 12 or 14 feet wide and in lengths up to 60 feet. Shall be equipped with interior walls, electrical connections, HVAC and lighting.
- 4.1.6. Storage Containers
 - 4.1.6.1. Storage containers similar to the ISO intermodal shipping container and capable of being store on site. Normally 20 or 40 feet long and 8 feet wide.
- 4.1.7. Re-locatable Walkways, Covers and Ramps
 - 4.1.7.1. Constructed of suitable metal material to withstand prolong usage and relocation. Must meet or exceed all ADA requirements.



Request for Proposal

Solicitation No.
BPM003812

Description:
Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration
General Services Division
100 North 15th Avenue, Suite 103
Phoenix, AZ 85007

4.1.8. Fleet Buildings

4.1.8.1. A group of buildings for rental/lease placed into service over a period of years that may not meet the 2006 International Building Code.

4.1.9. Workforce Camps & Workforce Housing

4.1.9.1. Can include Sleeping Accommodations, Dining Facilities, Recreation Complexes and Camp Support

4.1.10. Relocation/Removal Services

4.1.10.1. Existing Modular Buildings relocated to another location statewide.

4.1.10.2. Removal and Disposal of existing Modular Buildings.

4.2. CONTRACTOR REQUIREMENTS

4.2.1. General Requirements

4.2.1.1. Contractor shall utilize means, methods, and techniques that do not destroy the materials to be reused, or to remain the property of the State.

4.2.1.2. Contractor shall furnish drinking water and temporary sanitation facilities for use by construction personnel throughout project duration. Temporary sanitation facilities shall be serviced a minimum of one (1) time weekly.

4.2.1.3. All workers are required to carry valid photo identification while working on this project.

4.2.1.4. Contractor shall provide and maintain material safety data sheets on-site as required for any materials.

4.2.1.5. Contractor shall dispose of all materials or debris in accordance with applicable EPA guidelines.

4.2.1.5.1. Contractor shall at all times keep the project area, including any storage areas used by the Contractor, free from accumulations of waste material or rubbish.

4.2.1.5.2. Upon final completion of the Work, Contractor shall immediately remove any rubbish from the premises, tools, and equipment, and all materials not the property of the State.

4.2.1.5.3. Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the Project Manager upon final completion.

4.2.1.6. Services by the Contractor shall include but are not necessarily limited to:

4.2.1.6.1. Bid and award contracts for subcontracts;

4.2.1.6.2. Provide quality controls;

4.2.1.6.3. Bond and insure the construction;

4.2.1.6.4. Address owner concerns;

4.2.1.6.5. Construction project scheduling, coordination and administering of the construction;

4.2.1.6.6. Shall be fully responsible for the means and methods of construction, project safety and for project completion.



Request for Proposal

Solicitation No.

BPM003812

Description:

Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration

General Services Division

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- 4.2.1.7. Permit Application: Complete any required building permit application and file with authorities having jurisdiction within five days of the Notice of Award.
- 4.2.1.8. Requirements express or implied for Contractor personnel, subcontracts, and audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.
- 4.2.1.9. Contractors will be limited to any manufacturers' certified "Self-Adhered" Contractors list when applicable.
- 4.2.1.10. Contractor to monitor noise levels.
- 4.2.1.11. Contractor shall inspect the site and conduct field measurements prior to bid submittal.

The following Exhibit applies to the Scope of Work: **NONE**

End of Section 2-A



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SECTION 2-B: Pricing Document

1. COST AND PRICING

- 1.1. All bidders will provide Maximum Mark-Up Percentage.
- 1.2. All Bidders will provide Maximum General Conditions Percentage
- 1.3. Maximum markups and fees will be established in the Secondary Selection Questionnaire. The following definitions shall be used to guide all future project development and implementation of specific Commercial Modular/Pre-Engineered Buildings Task Orders.
- 1.4. Markups, Margins, Costs and Fees. The project shall be defined as a Guaranteed Maximum Price project. There shall be established a ceiling or Guaranteed Maximum Price for the Statement of Work as defined. The Contractor shall be compensated for actual total costs incurred plus the profit markup amount as negotiated for the project; never to exceed the profit percentage established in the prevailing Request for Proposals Response by the Contractor as required under A.R.S. § 34-455(A). As a result, the Contractor is responsible for any and all cost overruns and any savings resulting from cost underruns shall be retained by the eligible State Agency. Invoice requests and remuneration shall represent only Work that has been actually completed and supported by appropriate documentation of costs incurred.

2. Pricing

- 2.1. CONTRACTOR'S BEST PRICING. Contractor warrants that, for the term of the Contract, the prices and discounts set out in Secondary Selection Questionnaire, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent services, items of equipment and materials.
 - 2.1.1. That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances.
 - 2.1.2. If Contractor's Best Pricing for equivalent services, items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.
 - 2.1.3. For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If it was before, then Contractor agrees to charge at less than the Contract Pricing until the extended

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difference that would have been realized (i.e., if the Contractor's Best Pricing had been applied when it should have been) has been settled.

2.2. PRICING-ALL-INCLUSIVE:

- 2.2.1. Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's offer as accepted by State. Details of service not explicitly stated in the Scope of Work or in Contractor's Offer, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the Contract are included in the pricing provided.

2.3. PRICE INCREASES:

- 2.3.1. The State may review a fully documented request for a price increase. The requested increase shall be in writing and be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. Contractor must provide conclusive evidence of a need for any price increases such as being substantiated by the Producer Price Index, Consumer Price Index, or similar pricing guide.
- 2.3.1.1. Initial Contract prices will be honored for one year after award of Contract.
- 2.3.1.2. All written requests for price adjustments made by the contractor shall be initiated thirty (30) days in advance of any desired price increase to allow State sufficient time to make a fair and equitable determination to any such requests. This may be waived upon proper documentation demonstrating the urgency of the request.
- 2.3.1.3. All price adjustments will be implemented by a formal contract amendment. State shall determine whether the requested price increase or an alternate option is in the best interest of the State.

2.4. PRICE REDUCTIONS:

- 2.4.1. Price reductions shall be immediately passed along to State and may be submitted in writing to State for consideration at any time during the Contract period. The contractor shall offer State a price reduction on the Contract product(s) concurrent with a published price reduction made to other customers. State at its own discretion may accept a price reduction. The price reduction request shall be in writing and include documentation



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showing the actual reduction of cost. Sales promotions requests shall include differences in pricing, begin, and end date of promotion along with the products covered.

2.5. ADDITIONAL CHARGES:

- 2.5.1. Any charges or fees not delineated in the Contract may not be added, billed, or invoiced under the Contract.

2.6. TRAVEL:

- 2.6.1. Contractor shall get written approval prior to any travel under the Contract in which reimbursement of expenses will be requested. Contractor will be reimbursed for actual expenses incurred in accordance with the current rates specified in State's Travel Policy. Contractor shall itemize all per diem and lodging charges. State Travel Policy, including State rates, may be located at <https://gao.az.gov/travel>. The Eligible Entity / Customer shall reject any claim for travel reimbursement without prior written approval.

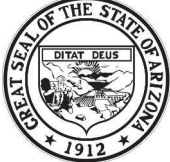
3. Funding

No particular funding considerations apart from paragraph 4.3 of the Uniform Terms and Conditions [Availability of Funds] have been identified as of the Solicitation date.

4. Invoicing

- 4.1. INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Entity/Customer (e.g. Eligible Agency or Co-Op Buyer) at the address indicated on the applicable Order document or by utilizing the Buying Entity's purchasing tool/process.
- 4.2. MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	☐
Contractor name and contact information	☐
Remit-to address	☐
State contract number	☐
Order number (typically the State's e-Procurement System PO #)	☐
Invoice number and date	☐
Date the items shipped or services performed	☐
Applicable payment terms	☐
Contract line item number	☐

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Contract line item description	☐
Quantity delivered or performed	☐
Line item unit of measure	☐
Item price	☐
Extended pricing	☐
Discount off list or catalog	☐
Taxes <i>(as a separate invoice line item)</i>	☐
Upcharge shipping/freight, etc. <i>(as a separate invoice line item)</i>	Materials only
Total invoice amount due	☐

- 4.3. NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for any:
- 4.3.1. Materials or Services that have not been authorized on an acknowledged Order;
 - 4.3.2. Expediting, overtime, premiums, or upcharges absent State's express prior approval; or
 - 4.3.3. Materials or Services that are the subject of a Contract Amendment that has not been fully signed.
- 4.4. PRE-INVOICE REVIEW. Shortly before the Contractor is scheduled to submit each invoice, the parties' representatives shall meet informally to review any issues relevant to that upcoming invoice so that the formal invoice process is thereby facilitated and made more efficient.
- 4.5. SUBMITTING INVOICES. Contractor shall submit an invoice to the ordering Eligible Agency or Co-Op Buyer using the form and/or process provided or required by the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer). Every invoice must be signed by the Contractor's authorized

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representative and accompanied by all supporting information and documentation required by the Contract and applicable laws.

4.6. DEFECTIVE INVOICES. Without prejudice to its other rights under the Contract or further obligation to Contractor, the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer) may, at its discretion, reject any materially defective invoice.

4.6.1. The ordering Authorize Entity/Customer (Eligible Agency or Co-Op Buyer) shall notify Contractor within 5 (five) business days after receipt if it determines an invoice to be materially defective.

4.6.2. Invoices will be deemed automatically rejected upon delivery if they:

4.6.2.1. are sent to an incorrect address;

4.6.2.2. do not reference the correct State contract number; or

4.6.2.3. are payable to any Person other than the Contractor.

4.6.3. The ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer) will have no obligation to pay against a defective invoice unless and until Contractor has re-submitted it free of defects.

5. Payments

5.1. PAYMENT. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Section 4.0 Costs and Payments of the Uniform Terms and Conditions

5.2. JOINT CHECKS OR DIRECT PAY. applicable Eligible Agency or Co-Op Buyer may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.

5.3. RECOVERY OF OVER-PAYMENT. If applicable Eligible Agency or Co-Op Buyer determines that an overpayment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the overpayment and may deduct the overpaid amount from amounts then or thereafter due to Contractor.

5.4. PAYMENTS TO SUBCONTRACTORS. Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from applicable Eligible Agency or Co-Op Buyer applicable to their services.

5.5. PURCHASING CARD. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders using a purchasing card. Any and all fees related to payment using a Purchasing Card are the



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responsibility of Contractor. Unless otherwise stated in the Contract there will be no additional fees or increase in prices associated with this method of payment.

- 5.6. AUTOMATED CLEARING HOUSE. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner from Eligible Agencies, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at:

<https://gao.az.gov/afis/vendor-information>

6. Exhibits to the Pricing Document

☐ none

End of Section 2-B



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SECTION 2-C: Secondary Contractor Selection for a Project

Secondary Contractor Selection Process

Contractors awarded from this Solicitation will have an active Contractor Base Contract (the Pre-Qualified List) and will be eligible to provide Commercial Modular/Pre-Engineered Buildings services to the State. The State will use a secondary contractor selection process to select a specific Contractor. Contractors that meet the project specific criteria on the active Base Contract will be invited to complete a secondary selection questionnaire and submit a project proposal, which may lead to an award of a specific Task Order.

If the State is unable to come to terms with a selected Contractor through the Secondary Selection Process, then the State reserves the right to end negotiations and start a Secondary Selection with another contracted vendor.

For the Secondary Selection Process, Contractors will be selected for specific task orders based on the following Attachments. These sample attachments are examples of a Secondary Selection Questionnaire. Individual projects will use project specific requirements in the questionnaires.

Questionnaire 1 to Secondary Selection of Approved Contractor-Project Specific Experience and Capacity Questionnaire

Questionnaire 2 to Secondary Selection of Approved Contractor-Project Specific Cost and Pricing Questionnaire

Questionnaire 3 to Secondary Selection of Approved Contractor-Project Specific Schedule Questionnaire

Task Order selection for award criteria will be based on these attachments. Actual weight percentage shall change specific to each project.

***Entire submission shall not exceed 10 pages.**



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Questionnaire 1 to Secondary Selection of Approved Contractor **Project Specific Experience and Capacity Questionnaire**

1. Management Approach

1.1. Project Personnel and Staffing

1.1.1. Qualifications and Experience of Personnel

Complete the table below to list *each individual* who will have primary responsibility for key tasks and phase of the proposed project.

Offeror Response:

<u>NAME</u>	<u>TITLE</u>	<u>POTENTIAL ROLE</u>	<u>PROJECT LIST w/ PROJECT TYPE, COST, & ROLE</u>	<u>BASE LOCATION</u>

Potential role in the project: technical analysis, engineering design, construction management, construction, training, post-construction measurement and verification, support, and other services; note supervisory responsibilities, if any.

Level of expertise: specific qualifications related to role and responsibilities for the project; past relevant experience; years in industry or other brief description

Base Location: Permanent office in the state; on assignment from other state; out-of-state support.



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Project List: List projects, with project type and project cost, that the person was associated with during the last five years.

Also provide resumes in a clearly marked appendix to the company's response to this final selection RFP.

1.1.2. Subcontractors

Complete an additional table to include any and all Subcontractors

Check "NO" if you WILL NOT subcontract any portion of the Work and will therefore be carrying out all of the Work with your own personnel.

	NO, the Offeror will not subcontract any portion of the Work.
--	---

If you WILL subcontract any portion of the Work, check "YES" below and list name of persons or companies you propose to use as subcontractors.

1. Fill in the information for every significant subcontractor – indicate the type of work the subcontractor will perform under the Contract, and their approximate percentage of the total Contract work.
2. Provide copies of relevant certifications each one possesses in the Attachment Supplements section.
3. Provide description of quality assurance methods and quality control measures that you will use to ensure that Subcontractor work meets the Contract requirements.
4. State may demand additional information about proposed subcontractors as a precondition of award.

	YES, the Offeror will use the Subcontractors listed below:
--	--



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	Name and contact information	Small Business	Work to be performed	%
1 .	Name	select		
2 .	Name	select		
3 .	Name	select		
4 .	Name	select		
5 .	Name	select		



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Questionnaire 2 to Secondary Selection of Approved Contractor

Project Specific Cost and Pricing Questionnaire

1. COST AND PRICING

- 1.1. The State may choose to accept markups, margins and fees pre-established in the initial RFP for Prequalified Contractors proposed by the Contractor for individual projects without further negotiation, *or* directly negotiate with Contractor for reductions as appropriate for individual facility or project requirements. Contractor may also propose lower markups, and fees depending upon individual project considerations. All costs for the Project whether internal or external to the Contractor will be evaluated through price analysis to compare costs with reasonable criteria such as established catalog and market prices or historical prices. The pricing methodology and individual cost markups disclosed during preliminary contract negotiations define maximums for the scope and size of the Project. Invoices shall be only for verified work completed and actual costs incurred as substantiated by the appropriate documentation.

2. Pricing will be included in this Questionnaire. Please include all cost for Turn-Key Supply and Install of the Requested Project Specifications.

3. Equipment/Labor Cost Competition

- 3.1. Describe your company's process to solicit bids on equipment/labor or to ensure price/cost competition and the best value for the eligible state agency or CO-OP Buyer.

4. Best Value

- 4.1. Briefly describe how your approach to Commercial Modular/Pre-Engineered Buildings production and install delivers best value for the investment. Describe any rebates or other financial incentives you can potentially provide and/or facilitate for this project.



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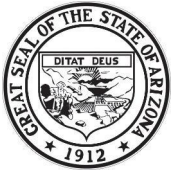
Questionnaire 3 to Secondary Selection of Approved Contractor **Project Specific Schedule Questionnaire**

1. Schedule

- 1.1.** The State is asking for a schedule based on the request for a specific project. Each specific project may have different scheduling needs. Detail the Critical Path through the project's entirety. Show any options your company can display to make the schedule succeed.

End of Section 2-D

SAMPLE



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SECTION 2-D: Special Terms and Conditions

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

- | | | |
|------|---|---|
| 1.1 | Acceptance | "Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services. |
| 1.2 | Accepted Offer | If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer.
If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer.
If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer. |
| 1.3 | Arizona Procurement Code; A.R.S.; A.A.C. | "Arizona Procurement Code, "A.R.S.," and "A.A.C." are each defined in the <u>Instructions to Offerors</u> . |
| 1.4 | Arizona TPT | "Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at:
https://www.azdor.gov/business/transactionprivilegetax.aspx . |
| 1.5 | Attachment | "Attachment" means any item that:
1. the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO);
2. was attached to an Offer when submitted; and
3. was included in the Accepted Offer. |
| 1.6 | Pricing Document | "Pricing Document" means <u>Section 2-B of Part 2 of the Solicitation Documents</u> , provided that, if there is no such Section in the Contract, then "Pricing Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions. |
| 1.7 | Contract Amendment | "Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. |
| 1.8 | Contract Terms and Conditions | "Contract Terms and Conditions" means the <u>Special Terms and Conditions</u> and these Uniform Terms and Conditions taken collectively. |
| 1.9 | Contractor | "Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with State. |
| 1.10 | Contractor Indemnitor | "Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors. |
| 1.11 | Co-Op Buyer | "Co-Op Buyer" means a member of the State Purchasing Cooperative that has entered into a "Cooperative Purchasing Agreement" with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op |



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Buyer. For reference, "Co-Op Buyer" is to be construed as encompassing "eligible procurement unit" under A.A.C. R2-7-101(23).

NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, "non-profit organizations" are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.

- | | | |
|------|---------------------------------------|--|
| 1.12 | Eligible Agency | If the <u>Solicitation Summary</u> indicates that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein. If the Solicitation Summary indicates that the Contract is a "statewide" contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board. |
| 1.13 | Indemnified Basic Claims | "Indemnified Basic Claims" means any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.3. |
| 1.14 | Instructions to Offerors | "Instructions to Offerors" is Section 3-a of Part 3 of the Solicitation Documents. |
| 1.15 | Order | <p>"Order" means the instrument by which State authorizes Contractor to perform some or all of the Work. Whether the Contract will have one Order or many Orders depends the scope of the Contract and how State will use it. The <u>Special Terms and Conditions</u> provide that information. Any of the following is to be construed as being an "Order":</p> <ol style="list-style-type: none"> 1. "Release" or "Release Purchase Order" in The State's e-Procurement System; 2. "task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in The State's e-Procurement System; or 3. "purchase order" for buying by Co-Op Buyers, if co-op buying applies. |
| 1.16 | The State's Procurement System | <p>e- "The State's e-Procurement System" means State's official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy document <i>Technical Bulletin No. 020, The State's e-Procurement System – The Official State eProcurement System</i>.</p> <p>NOTE (1): Technical Bulletin No. 020 is available online at:
 https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations</p> |
| 1.17 | State | With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Order. |
| 1.18 | State Indemnitees | "State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees. |
| 1.19 | Subcontractor | "Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "... a person who contracts to perform work or render service to ... [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ."The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, a Person carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently. |
| 1.20 | Work | "Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws. |



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2.0 Contract Interpretation

2.1 Usage

Where the Contract:

1. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor and all Subcontractors, whether they are first-tier subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subcontractors' respective agents, representatives, and employees" in every instance unless the context plainly requires that it is to be a reference only to Contractor as apart from Subcontractors;
2. uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [Definitions]. For clarity of intent, any right given to State using "State may" or a like construction denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that: (a) where written "may, at its discretion," the discretion extends to whatever is most advantageous to State; and (b) where written only as "may," the discretion is constrained by what is fair, reasonable, and as accommodating of the respective best interests of both parties as practicable under the circumstances;
3. uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [Definitions]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition.
4. uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written *"must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes"* in every instance;
5. uses the term "might" with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and
6. uses the term "will" or the phrases "is to be" or "are to be" with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that "shall" is either unnecessary or irrelevant in that instance.

2.2 Contract Order of Precedence

COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

- (a) Contract Amendments;
- (b) the final Solicitation Documents, in the order:
 - (1) Special Terms and Conditions;
 - (2) Exhibits to the Special Terms and Conditions;
 - (3) Uniform Terms and Conditions;
 - (4) Scope of Work;
 - (5) Exhibits to the Scope of Work;



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Arizona Department of Administration

General Services Division

100 North 15th Avenue, Suite 103
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- (6) Pricing Document;
- (7) Exhibits to the Pricing Document;
- (8) Specifications; and
- (9) any other documents referenced or included in the Solicitation;
- (c) Orders, in reverse chronological order; and
- (d) Accepted Offer.

ATTACHMENTS AND EXHIBITS. For clarity of intent, if an item was an Attachment in the Solicitation Documents or an Offer (either Initial, Revised, Best and Final, or Accepted) and was subsequently made into an Exhibit, or its content was incorporated into one of the other Contract documents, then that Attachment no longer exists contractually as an "Attachment" since it has at that point been made into some other Contract document. In every other case, an Attachment and the Offeror data therein remain part of the Accepted Offer for purposes of precedence and contractual effect.

2.3 Independent Contractor

Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

2.4 Complete Integration

The Contract, including any documents incorporated into the Contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract.

3.0 Contract Administration and Operation

3.1 Term of Contract

The term of the Contract will commence on the date indicated on the Acceptance and continue for **twelve (12) months unless canceled, terminated, or permissibly extended**.

3.2 Contract Extensions

State may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the maximum aggregate term of five (5) years.

3.3 Notices and Correspondence

3.3.1 TO CONTRACTOR. State shall:

- (a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding The State's e-Procurement System Vendor Profile; and
- (b) address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Accepted Offer, as that address might have been amended during the term of the Contract.

3.3.2 TO STATE. Contractor shall :

- (a) address all Contract correspondence other than format notices to the email address indicated in "Contact Instructions" in the State's e-Procurement System Summary for State; and
- (b) address any required notices to State to Procurement Officer identified as "Purchaser" in the State's e-Procurement System Summary at the following mailing address:

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1110 W. Washington Street, Suite 155
Phoenix, AZ 85007

- 3.3.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.



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3.4 Signing of Contract Amendments

Contractor's counter-signature – or "approval" in The State's e-Procurement System, in the case of an amendment – is not required to give effect if the Contract Amendment only covers either:

1. extension of the term of the Contract within the maximum aggregate term;
2. revision to Procurement Officer appointment or contact information; or
3. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in (1), (2), and (3) above, both parties' signature – or "approval" in The State's e-Procurement System, in the case of an Amendment – are required to give it effect.

3.5 Click-Through Terms and Conditions

If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

- 3.6.1 **RETAIN RECORDS.** By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.
- 3.6.2 **RIGHT TO AUDIT.** The retained books and records are subject to audit by State during that period. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.
- 3.6.3 **AUDITING.** Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.6.1 and 3.6.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.7 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and for the Work itself.

3.8 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are to be supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.



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3.9 Ownership of Intellectual Property

3.9.1 RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

(a) "Government Purpose Rights" are:

- i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;
- ii. the right to release or disclose that work product to third parties for any State government purpose; and
- iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.

(b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:

- (a) any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product;
- (a) any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and
- (b) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.

3.10 Subcontracts

3.10.1 INITIAL LIST. At the time of Contract execution, Contractor's candidate Subcontractors were identified in Attachment 3-C to the Accepted Offer [*Proposed Subcontractors*]. Agreeing to them being included in the Accepted Offer signified Procurement Officer's advance consent for Contractor to enter into a Subcontract with each candidate, which Contractor shall do as promptly as necessary to ensure its ability to carry out the Work in a timely manner.

3.10.2 ADDITIONAL NAMES. Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on Attachment 3-C at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were



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previously consented. For either case (a) or (b), Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it.

- 3.10.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

3.11 Offshore Performance of Certain Work Prohibited

Contractor shall only perform those portions of the Services that directly serve State or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.

3.12 Orders

- 3.12.1 ORDER SUFFICIENCY. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the code for competitive source selection have been met. An Order issued that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Order.
- 3.12.2 ORDER TERMS. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions.
- 3.12.3 ORDERS ARE OBLIGATORY. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.
- 3.12.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract and (b) the Contract was created in The State's e-Procurement System as something other than a "Master/ Blanket" type.
- 3.12.5 NO MINIMUMS OR COMMITMENTS. (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.
- 3.12.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.



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3.13 Statewide Contract Provisions

Refer to Section 2-C: Special Terms and Conditions 1.12 Eligible Agency for Determination of statewide contract: If the Contract is a "statewide" contract for multiple purchases, projects, or assignments, it can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a "statewide" contract hereunder.

The Contract is an indefinite delivery, indefinite quantity (ID/IQ) type of contract; it is to be construed as a "delivery order" sub-type of ID/IQ contract to the extent the Work is Materials, and a "task order" sub-type to the extent the Work is Services.

1. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

<https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative>

4. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).

5. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is one (1%) percent. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>

6. Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>

7. Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in The State's e-Procurement System, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in The State's e-Procurement System, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in The State's e-Procurement System, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in The State's e-Procurement System within 3 (three) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in The State's e-Procurement System and if it does so the rejection will be void.



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8. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

3.14 Multiple-Use Provisions

Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a "Release Purchase Order" in The State's e-Procurement System. Orders issued by Co-Op Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

1. By choosing some or all of the Materials or Services items covered by the Contract for which a price is established in the Pricing Document, then preparing an Order using those prices (e.g., filling out an order form), and sending it to Contractor.
2. By instructing Contractor to provide a comprehensive proposal of item quantities, combinations, etc., or services hours, personnel, etc., for a defined scope using those established prices as a basis, then validating and negotiating the proposal with Contractor and issuing an Order if and when reaching agreement.
3. As described in (2) above but requesting the proposal from both Contractor and other vendors who are contracted within the applicable scope categories and locations, either sequentially or concurrently, then selecting the proposal or proposals combination that is most advantageous to State.
4. As described in (3) above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones.

When evaluating the proposals under (3) and (4) above, State may select based on price (for example, a quoted number of hours times the contracted or improved rate plus a fixed amount for incidentals), by experience and qualifications (for example, having an office nearer the required work location), or whatever combination thereof it determines is most appropriate to the work in question.

3.15 Other Contractors

State may undertake with its own forces or award other contracts to the same or other vendors for additional or related work. In such cases, Contractor shall cooperate fully with State's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, services, or records to State or the other vendors. Contractor shall not commit or permit any act that interferes with the State's or other vendors' performance of their work, provided that, State shall enforce the foregoing section equitably among all its vendors so as not impose an unreasonable burden on any one of them.

3.16 Work on State Premises

3.16.1 **COMPLIANCE WITH RULES.** Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the Contract. Contractor is reminded that violation of the prohibition under A.R.S. § 13-1502 against possession of weapons on State's property by anyone for whom Contractor is responsible is a material breach of contract and grounds for termination for default.



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3.16.2 PROTECTION OF GROUNDS AND FACILITIES. Contractor shall deliver or install the Materials and perform the Services without damaging any State grounds or facilities. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 *[Right of Offset]*.

4.0 Costs and Payments

4.1 Liquidated Damages

4.1.1 Failure of Contractor to complete the Work within the time specified in the Contract, including any and all properly authorized extensions of time, will result in damages to the Agency with regard to occupancy, operations, and the specific benefits of public services, that are hereby communicated to the Contractor and contemplated by the Contractor as nullifying the inherent benefit of Agency's contractual bargain. Accordingly, as such damage is difficult to specify and formulate, Agency and Contractor agree that Contractor shall pay to Agency \$1200 per day as liquidated damages for each calendar day the Work remains incomplete beyond the date fixed for Substantial Completion.

Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects in Contractor's performance under the Contract for matters other than delays in Completion.

Original Contract Amount		
From More Than:	To and Including:	Calendar Day or Fixed Date:
\$ 0	\$ 100, 000	\$ 350
100, 000	500, 000	490
500, 000	1, 000, 000	840
1, 000, 000	2, 000, 000	910
2, 000, 000	5, 000, 000	1, 190
5, 000, 000	10, 000, 000	1, 540
10, 000, 000	-----	2, 380

4.2 Payments



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- 4.3 Applicable Taxes**
- 4.1.1 **PAYMENT DEADLINE.** State shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Pricing Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Pricing Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in The State's e-Procurement System and provided a current IRS Form W-9 to State unless excused by law from providing one.
- 4.1.2 **PAYMENTS ONLY TO CONTRACTOR.** Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Accepted Offer.
- 4.2.1 **CONTRACTOR TO PAY ALL TAXES.** State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Pricing Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.
- 4.2.2 **TAX INDEMNITY.** Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well as any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

5.0 Contract Changes

- 5.1 Contract Amendments**
- The Contract is issued for State under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.
- 5.2 Assignment and Delegation**
- 5.2.1 **IN WHOLE.** Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.
- 5.2.2 **IN PART.** Subject to paragraph 3.10 [*Subcontracts*] with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.



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6.0 Risk and Liability

6.1 Risk of Loss

Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

6.2 Contractor Insurance

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

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

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

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability and XCU (explosion/collapse/underground) coverage.

General Aggregate \$2,000,000

Products – Completed Operations Aggregate \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

Damage to Rented Premises \$50,000

a. The policy shall be endorsed (Blanket Endorsements are not acceptable) to include the following additional insured language: "The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

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

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

a. The policy shall be endorsed (Blanket Endorsements are not acceptable) to include the following additional insured language: "The State of Arizona, and its



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departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

c. Policy shall contain a severability of interest provision.

3. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability

Each Accident \$1,000,000

Disease – Each Employee \$1,000,000

Disease – Policy Limit \$1,000,000

a. Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

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

4. Professional Liability (Errors and Omissions Liability)

• Each Claim \$2,000,000

• Annual Aggregate \$2,000,000

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

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

5. Builders Risk

Builders Risk shall be purchased in an amount equal to the initial Contract Amount plus additional coverage equal to contract amount for all subsequent change orders.

a. The State of Arizona, the Department subcontractor and any others with an insurable interest in the work shall be endorsed (Blanket Endorsements are not acceptable) in favor of "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" as Additional Insureds on the policy.



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b. Coverage shall be written on an all risk, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.

c. Policy shall be maintained until whichever of the following shall first occur: (1) final payment has been made; or, (2) until no person or entity, other than the State of Arizona, has an insurable interest in the property required to be covered.

d. Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the State of Arizona.

e. The Builders Risk must provide coverage from the time the equipment/material becomes the responsibility of the Contractor and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.

f. Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees" for losses arising from work performed by the Contractor for the State of Arizona.

g. Contractor is responsible for the payment of all deductibles under the Installation Floater or Builders Risk policy.

h. The Department shall be named as loss payee as our interest may appear.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed (Blanket Endorsements are not acceptable) to include, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

2. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Department and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Contractors insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements (Blanket Endorsements are not acceptable) are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.



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All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. APPROVAL: Any modification or variation from the insurance requirements in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.

H. EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

6.3 Indemnification

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

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

6.4 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;



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3. State may elect to participate in such action at its own expense; and
4. State may approve or disapprove any settlement or compromise, provided that,
 - (i) State shall not unreasonably withhold or delay such approval or disapproval and
 - (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

- 6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.66 [*Performance in Public Health Emergency*], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.
- 6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.
- 6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.
- 6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

6.6 Third Party Antitrust Violations

Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7.0 Warranties

7.1 Conformity to Requirements

Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract.



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Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.

7.2 Contractor Personnel

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.3 Intellectual Property

Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

7.4 Licenses and Permits

Contractor warrants that it will maintain all licenses required under paragraph 3.7 [*Contractor Licenses*] and all required permits valid and in force.

7.5 Operational Continuity

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.3 [*Assignment and Delegation*] that expressly recognizes the event.

7.6 Performance in Public Health Emergency

Contractor warrants that it will:

1. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and
9. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.5 [*Force Majeure*] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

7.7 Lobbying

7.7.1 PROHIBITION.

(a) Contractor warrants that:

- i. it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and
 - ii. upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.
- (b) Contractor shall implement and maintain adequate controls to assure compliance with (a) above.
- (c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.



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7.7.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.8 Survival of Warranties

All representations and warrants made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

8.0 State's Contractual Remedies

No modifications to uniform terms and conditions section

9.0 Contract Termination

No modifications to uniform terms and conditions section

10.0 Contract Claims

10.1 Claim Resolution

Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.

10.2 Mandatory Arbitration

In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.

11.0 General Provisions for Materials

11.1 Applicability

Article 11 applies to the extent the Work is or includes Materials.

11.2 Off-Contract Materials

Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders, State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.

11.3 Compensation for Late Deliveries

Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them

11.4 Indicate Shipping Costs on Order

Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one)

11.5 Current Products

Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract

11.6 Maintain Comprehensive Selection

Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if applicable.

11.7 Additional Products

State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully

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11.8 Discontinued Products

executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of (b) typically requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products

If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones.

11.9 Forced Substitutes

Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.

11.10 Recalls

In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall

11.11 Delivery

11.11.1 **PRICING.** Unless stated otherwise in the Commercial Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.o.b. Origin, Contractor's Facility" under [FAR 52.247-30](#)

11.11.2 LIABILITY. Unless stated otherwise in the Commercial Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.o.b. Destination, Within Consignee's Premises" under [FAR 52.247-35](#).

11.11.3 **PAYMENT.** Unless stated otherwise in the Commercial Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately



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11.12 Delivery Time

Unless stated otherwise in the Commercial Document generally or in the applicable Order particularly, Contractor shall make delivery within 2 (two) business days after receiving each Order

11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically

1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
2. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
10. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
11. if the Contract is for unrestricted statewide use, then:
 - i. Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;
 - a) If a prospective Co-Op Buyer outside Arizona wishes to order against the Contract, Contractor agrees to negotiate in good faith any fair and reasonable price or lead time adjustments necessary to serve that location if practicable to do so within the scope of its normal business; and,
 - b) if the Commercial Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions

11.15 Materials Acceptance

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

11.16 Correcting Defects



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Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials

1. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.
2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.
3. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within thirty (30) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancellation

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

1. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus one (1) additional business day
2. reimburse Contractor for:
 - (a) its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus one (1) additional business day;
 - (b) the cost of any obligations it incurred in fulfilling the Order up to the cancellation effective date plus one (1) additional business day that demonstrably cannot be canceled, or that have pre-established cancellation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and,
3. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant

11.20 Hazardous Materials



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Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup

12.0 General Provisions for Services

- | | | |
|------|--|--|
| 12.1 | Applicability | Article 12 applies to the extent the Work is or includes Services. |
| 12.2 | Comprehensive Services Offering | Contractor shall provide the comprehensive range of services for which a price is established in the <u>Pricing Document</u> for ordering by Eligible Agencies, and Co-Op Buyers if co-op buying applies. |
| 12.3 | Additional Services | State at its discretion may modify the scope of the Contract by Contract Amendment to include additional services or service categories that are within the general scope of the ones originally covered by the Contract if it determines that doing so is in its best interest. Once the Contract Amendment is fully executed, Contractor shall then update all applicable price lists and make them available to all affected entities at no additional cost. Either party may make the request to add services to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional services, but State may elect not to add some or all of the services in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include documentation demonstrating that the proposed price for the additional services is both fair and reasonable and comparable to the original ones. |
| 12.4 | Off-Contract Services | Contractor shall ensure that the design and/or procedures for the Services ordering method prevents Orders for off-contract or excluded services. Notwithstanding that State might have its own internal administrative rules regarding off contract or excluded service ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders. State may, at its discretion, cancel any such Order without obligation. As used above, "off-contract service" refers to any service not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded service" refers to any service expressly excluded from the scope of the Contract. |
| 12.5 | Removal of Personnel | Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, State may at its discretion and without the obligation to demonstrate cause instruct Contractor to remove any of its personnel from State's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace them with other personnel having equivalent qualifications, experience, and capabilities. |
| 12.6 | Transitions | During commencement, Contractor shall attend transition meetings with any outgoing vendors to coordinate and ease the transition so that the effect on State's operations is kept to a minimum. State may elect to have outgoing vendors complete some or all of their work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract. Conversely, State anticipates having a |

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continued need for the same materials and services upon expiration or earlier termination of the Contract. Accordingly, Contractor shall work closely with any new (incoming) vendor and State to ensure as smooth and complete a transfer as is practicable. State's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming vendor. As with the incoming transition, State may permit Contractor (outgoing) to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.

12.7 Accuracy of Work

Contractor is responsible for the accuracy of the Services, and shall promptly make all necessary revisions or corrections resulting from errors and omissions on its part without additional compensation. Acceptance by State will not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.

12.8 Requirements at Services Location

Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order (if applicable). Contractor acknowledges that the location might be inside an industrial building, institutional building, or one of various office types and classes. Additionally, if performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions.

12.9 Services Acceptance

State has the right to make acceptance of Services subject to acceptance criteria. State may apply as acceptance criteria conformity to the Contract, accuracy, completeness, or other indicators of quality or other matter for which the Contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. State will not owe Contractor any payment for un-accepted Services; and State may, at its discretion, withhold or make partial payment for any rejected Services if Contractor is still in the process of re-performing or otherwise curing the grounds for State's rejection.

12.10 Corrective Action Required

Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any material portion of the Services, including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable.

1. Contractor shall provide to State a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or the date when the failure first became apparent, if it was not apparent immediately after occurrence).
2. State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections State instructs and adopt State's recommendations so far as is commercially practicable, provided that State may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment.
3. Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances.

13.0 Data and Information Handling

13.1 Applicability

Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.



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13.2 Data Protection and Confidentiality of Information

Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

13.3 Personally Identifiable Information.

Without limiting the generality of paragraph 13.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information*; and
2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

<https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>

NOTE (2): For convenience of reference only, the GSA directive is available at:

<http://www.gsa.gov/portal/directive/d0/content/658222>

13.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;
2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in (1) above; and
3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in (1) above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.



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NOTE: For convenience of reference only, the Privacy Rule is available at:

<http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

14.0 Information Technology Work

- 14.1 Applicability** Article 14 applies to any Invitation for Bids, Request for Proposals, or Request for Quotations for "Information Technology," as defined in A.R.S. § 41-3501(6) 6: "... computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects" if and to the extent that the Work is or includes Information Technology.
- 14.2 Background Checks** Each of Contractor's personnel who is an applicant for an information technology position must undergo the security clearance and background check procedure, which includes fingerprinting, as required by A.R.S. § 41-710. Contractor shall obtain and pay for the security clearance and background check. Contractor personnel who will have administrator privileges on a State network must additionally provide identify and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security.
- 14.3 Information Access**
- 14.3.1 **SYSTEM MEASURES.** Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting State's proprietary data or confidential information.
- 14.3.2 **INDIVIDUAL MEASURES.** Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Contractor is responsible to State for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Contractor shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel.
- 14.3.3 **ACCESS CONTROL.** Contractor is responsible to State for ensuring that hardware, software, data, information, and that has been provided by State or belongs to or is in the custody of State and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. State may restrict access by Contractor personnel, or instruct Contractor to restrict access their access, if in its determination the requirements of this subparagraph are not being met.
- 14.4 Pass-Through Indemnity**
- 14.4.1 **INDEMNITY FROM THIRD PARTY.** For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Contractor may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to State such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with State in enforcing that indemnity. If the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify State Indemnitees to the extent and degree Contractor is required to do by the Uniform Terms and Conditions, then Contractor shall indemnify, defend and hold harmless State Indemnitees to the extent the Pass-Through Indemnity does not.
- 14.4.2 **NOTIFY OF CLAIMS.** State shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from State, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that:



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- (a) State reserves the right to elect to participate in the action at its own expense;
- (b) State reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and
- (c) State shall in any case cooperate in the defense and any related settlement negotiations.

14.5 Systems and Controls

In consideration for State having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place systems and controls appropriate to ensure that State funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights.

14.6 Redress of Infringement.

14.6.1 REPLACE, LICENSE, OR MODIFY. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Contractor shall at its sole cost and expense and in consultation with State either:

- (a) replace any infringing items with non-infringing ones;
- (b) obtain for State the right to continue using the infringing items; or
- (c) modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification.

14.6.2 CANCELLATION OPTION. In every case under 14.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State:

- (a) for any software created for State under the Contract, the amount State paid to Contractor for creating it;
- (b) for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and
- (c) for Services, the amount paid by State or an amount equal to 12 (twelve) months of charges, whichever is less.

14.6.3. EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee:

- (a) modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor;
- (b) operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or
- (c) combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.

14.7 First Party Liability Limitation

14.7.1 LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of \$1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim.

14.7.2 PROVISOS. This paragraph 14.7 limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any:

- (a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.3;



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- (b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.4; or
- (c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.

14.7.3 **PURCHASE PRICE DETERMINATION.** If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all Contract Amendments having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.

14.7.4 **NO EFFECT ON INSURANCE.** This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.

14.8 Information Technology Warranty

14.8.1 **SPECIFIED DESIGN.** Where the Scope of Work for information technology Work provides a detailed design specification or sets out specific performance requirements, Contractor warrants that the Work will provide all functionality material to the intended use stated in the Contract, provided that, the foregoing warranty does not extend to any portions of the Materials that are:

- (a) modified or altered by anyone not authorized by Contractor to do so;
- (b) maintained in a way inconsistent to any applicable manufacturer recommendations; or
- (c) operated in a manner not within its intended use or environment.

14.8.2 **COTS SOFTWARE.** With respect to Materials provided under the Contract that are commercial-off-the-shelf (COTS) software, Contractor warrants that:

- (a) to the extent possible, it will test the software before delivery using commercially available virus detection software conforming to current industry standards;
- (b) the COTS software will, to the best of its knowledge, at the time of delivery be free of viruses, backdoors, worms, spyware, malware, and other malicious code that could hamper performance, collect unlawfully any personally identifiable information, or prevent products from performing as required by the Contract; and
- (c) it will provide a new or clean install of any COTS software that State has reason to believe contains harmful code.

14.8.3 **PAYMENT HAS NO EFFECT.** The warranties in this paragraph are not affected by State's inspection, testing, or payment.

14.9 Specific Remedies

Unless expressly stated otherwise elsewhere in the Contract, State's remedy for breach of warranty under paragraph 14.8 includes, at State's discretion, re-performance, repair, replacement, or refund of any amounts paid by State for the nonconforming Work, plus (in every case) Contractor's payment of State's additional, documented, and reasonable costs to procure materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the limitation of liability in paragraph 14.7. If none of the foregoing options can reasonably be effected, or if the use of the materials by State is made impractical by the nonconformance, then State may seek any remedy available to it under law.



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14.10 Section Compliance Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 18-131 and § 18-132 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

14.11 Cloud Applications The following are required for Contractor of any "cloud" solution that hosts State data outside of the State's network, or transmits and/or receives State data.

1. Submit a completed Arizona Baseline Infrastructure Security Controls assessment spreadsheet as found at: <https://aset.az.gov/resources/policies-standards-and-procedures>, and mitigate or install compensating controls for any issues of concern identified by State. Contractor is required to provide any requested documentation supporting the review of the assessment. The assessment shall be re-validated on a minimum annual basis.
2. State reserves the right to conduct Penetration tests or hire a third party to conduct penetration tests of the Contractor's application. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all serious flaws discovered by providing an acceptable timeframe to resolve the issue and/or implement a compensating control.
3. Contractor must submit copy of system logs from cloud system to State of AZ security team on a regular basis to be added to the State SIEM (Security Information Event Monitor) or IDS (Intrusion Detection System).

Contractor must employ a government-rated cloud compartment to better protect sensitive or regulated State data.

End of Section 2-C



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SECTION 2-E: Uniform Terms and Conditions



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Uniform Terms and General Conditions Design Build

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Uniform Terms and General Conditions Design Build

1) DEFINITION OF TERMS

As used in the Contract, the terms listed below are defined as follows:

1.1. Acceptance	"Acceptance" means the document headed "Offer and Acceptance Form" bearing the State Contract number once Procurement Officer has signed it to signify (a) the Agency's formal acceptance and (b) the formation of the Contract.
1.2. Additional Work	"Additional Work" means the addition of any Work, not described as Basic Work, to be provided to the Agency by the Contractor that is contemplated by, but not specifically described in, an Exhibit to this Contract. Compensation for Additional Work must be approved through a Change Order or Contract Amendment.
1.3. Agency	"Agency" is used with the same meaning as "State" in definition below.
1.4. Agency Designated Representative	"Agency Designated Representative" means the assigned representative of the Agency to monitor the progress and Schedule of the Work for the Project.
1.5. Allowance	"Allowance" means construction funds established by the Agency to compensate for a portion of the Work which cannot sufficiently be specified or determined before such Costs are incurred. The Contractor shall place any and all Allowances within separate line items in the Contractor's Contract Cost at time of offer submission.
1.6. Application for Progress Payment	"Application for Progress Payment" means Contractor and/or Contractor's monthly invoice request for payment that includes any and all portions of the Work in a Contract that have been completed and accepted by the Agency for which an invoice has not been previously submitted in accordance with the requirements of the Contract Documents. Progress Payments for Contractor Work approved and certified by the Contractor and Agency signature, shall be paid less deductions to pay the expenses the Agency reasonably expects to incur in correcting a deficiency set for in an Agency written finding in accordance with A.R.S. §41-2577, and retained percentage in accordance with A.R.S. §41-2576.
1.7. Application for Final Payment	"Application for Final Payment" means Contractor's final invoice for payment. The Application for Final Payment shall meet all the requirements of Applications for Payment, but shall also include any and all remaining open invoices under the Contract. After a Contractor's Application for Final Payment is approved by the Agency, the Agency shall not release any additional payments to that Contractor under the Contract.
1.8. Arizona Procurement Code; A.R.S., A.A.C.	"Arizona Procurement Code" means, collectively, Arizona Revised Statutes ("A.R.S.") Title 41 Chapter 23, Section 2501, <i>et seq.</i> , and the rules promulgated thereunder, Arizona Administrative Code ("A.A.C.") R2-7-101, <i>et seq.</i> NOTE: There are frequent references to the Arizona Procurement Code throughout the Solicitation, therefore, you will need to be familiar with its provisions to be able to understand the Solicitation fully. Links for obtaining copies are given below. The Arizona Department of Administration State Procurement Office provides a reference compilation of the Arizona Procurement Code on its website: https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations The Arizona State Legislature provides the official A.R.S. online at: http://www.azleg.gov/arstitle/ The Office of the Arizona Secretary of State provides the official A.A.C. online at: http://www.azsos.gov/rules/arizona-administrative-code
1.9. Arizona TPT	"Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at: https://www.azdor.gov/business/transactionprivilegetax.aspx .
1.10. As-builts	"As-builts" shall mean the marked-up version of the Drawings and Specifications Contract Documents prepared by the Contractor to record As-built conditions, current changes, and selections made during construction.
1.11. Attachment	"Attachment" means any item that the Offeror is required to submit as part of the provision of services required to design or engineer or construct the Project, as detailed in Exhibit A.
1.12. Basic Work	"Basic Work" means the services to be provided to the Agency by the Contractor described in an Exhibit.



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1.13. Bidding Documents	"Bidding Documents" means those documents prepared and furnished by the Agency for the purpose of obtaining bids from Contractors to construct the Work.
1.14. Building Work	"Building Work" means everything covered by the definitions in A.R.S. § 41-2503 [Definitions] of the terms "Construction" (4), "Maintenance Services" (26), and "Operations Services" (28).
1.15. Change Order	"Change Order" means the instrument by which the State authorizes Contractor to perform some or all of the Work, including but not limited, Construction Change Orders, Design Change Notices, and Field Order Directives. Consistent with A.R.S. § 41-2503(3), only the Procurement Officer responsible for this Contract has the authority to modify or amend this Contract through a signed Change Order or Contract Amendment. The Agency will only compensate Contractor for Work that has been approved by the Agency through a fully authorized Change Order or Contract Amendment.
1.16. Change Order Request	"Change Order Request" means a document that informs Agency of a proposed change in the Work and appropriately describes or otherwise documents such change including Construction Contractor(s)'s response of pricing for the requested change.
1.17. Close Out Documents	"Close Out Documents" means those items required by Exhibit M-Contractor Project Closeout, and as may be further defined, identified, and required by the Contract Documents.
1.18. Conditional Waiver of Lien	"Conditional Waiver of Lien" has the meaning defined in A.R.S §33-1008 which, for convenience of reference only is a: Conditional Waiver and release on <i>Progress Payment</i> "where the claimant is required to execute a waiver and release in exchange for or in order to induce the payment of a progress payment and the claimant is not in fact paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release", and Conditional Waiver and release on <i>Final Payment</i> is "where the claimant is required to execute a waiver and release in exchange for or in order to induce payment of a final payment and the claimant is not paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release".
1.19. Construction	"Construction" as defined in A.R.S. § 41-2503(4) means the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any real property in which the public has an interest.
1.20. Contractor	"Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with the Agency. For the purpose of this Contract, "Contractor" refers to any Person who has entered into a Contract with the Agency to coordinate and supervises a "Design-build" project as defined in A.R.S. § 41-2503(13).
1.21. Construction Documents	"Construction Documents" means any and all documents created by the Contractors that describe the Work in detail, including but not limited to, plans, specifications, revisions, addenda, and Change Orders, issued to build the project. Construction Documents created after the Contract is signed may be integrated into the Contract if, and only if, there is a properly executed Contract Amendment or Construction Change Order by an authorized agent of the State to verify that integration.
1.22. Contingency	"Contingency" means an amount associated with Costs that were unforeseen by the Contractor when it submitted its offer which may be authorized by the Agency through a Change Order. Contractor may not proceed with Work on Contingencies without prior authorization from the Agency through a Field Order Directive or Change Order. The Agency will not compensate Contractor for unauthorized Contingency Work.
1.23. Contract	"Contract" means, collectively, the entire agreement between Agency and Contractor, including all of the Contract Documents, the Acceptance, the Solicitation Documents, the Accepted Offer, the Design-Build Contractor Agreement, any and all authorized Change Orders, and any Contract Amendments.



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	The Contract is identified as a "Purchase Order" in APP, since that is the terminology used in the software. The terms of this Contract are defined in this document alone. The use of different terminology, or the same terminology with a different meaning, in any State eProcurement system (including, but not limited to, APP) does not override any term in this Contract. The Contractor should contact the relevant Procurement Officer if it has any questions regarding the meaning of terms in the State's eProcurement System.
1.24. Contract Amendment	"Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution without changing the general scope. Only the Procurement Officer responsible for this Contract has the authority to modify or amend this Contract. The term "Change Order" in APP is synonymous with "Contract Amendment."
1.25. Contract Cost	"Contract Cost" means the amount for which a Contractor agrees to perform the Work as set forth in its Contract with the Agency.
1.26. Contract Terms and Conditions	"Contract Terms and Conditions" means the <u>Special Terms and Conditions</u> and these Uniform Terms and Conditions taken collectively.
1.27. Contractor Indemnitor	"Contractor Indemnitor" means Contractor and/or any of its owners, officers, directors, agents, employees, or Subcontractors and, if applicable, their respective spouses.
1.28. Cost	1) "Cost" as defined by A.R.S. § 41-2571(2), means the aggregate Cost of all Materials and services, including labor performed by force account. The Agency shall only pay for expenses explicitly authorized as part of the Work under the Contract. 2) For any changes, subject to Markup, in the Work or additional charges sought by Construction Contractor under the contract, "Cost" shall only mean actual direct labor, material, and service Costs incurred by Construction Contractor at the construction site and which are necessary to complete the Work. Such Costs shall include those from subcontractors, vendors, and material suppliers. 3) Costs, for the purpose of this section, shall exclude markup for, including but not limited to, Costs incurred for general conditions, bonds, insurance, contingency, overhead or profit.
1.29. Day	"Day" means a calendar day unless otherwise specified in a particular context.
1.30. Design Build	"Design-build" is defined in A.R.S. § 41-2503(13) (a). "Design-build" means a project delivery method in which: (a) There is a single contract for design services and construction services, except that instead of a single contract for design services and construction services, the purchasing agency may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
1.31. Design Change Notice	"Design Change Notice" refers to an agreement that records a change to the time for Work completion, price, and/or change in design after the initial completion of the design was reviewed and approved by the Statutory Review. The purpose of the Design Change Notice is to ensure the changes are re-reviewed and approved by the Statutory Review, Procurement Officer, and the Contract Documents are revised and consistent with the Design Requirements under the Contract.
1.32. Design Professional	"Design Professional" means the individual or firm with which the Agency has entered into a written Design Professional Services Contract.
1.33. Design Professional Services	"Design Professional Services" as defined in A.R.S. § 41-2571(4), means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a Design Professional or employees or Subconsultants of the Design Professional.
1.34. Design Professional Service Contract	"Design Professional Service Contract," as defined in A.R.S. § 41-2571(3), means a written agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, Material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility or development or other improvement to land.
1.35. Design Requirements	"Design Requirements" means, at a minimum, the purchasing Agency's written description of the Work by the Contractor including: the required features, functions,



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	characteristics, qualities and properties; the anticipated Schedule, including start, duration and completion; and the estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance, and plans and specifications for the project. “Design Requirements” may also include the following, at the purchasing Agency’s discretion: Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by a Contractor who is registered pursuant to A.R.S. § 32-121; and/or Additional design information or documents.
1.36. Drawings	“Drawing” means the Work product of the Design Professional which graphically depicts the Work.
1.37. Estimated Project Construction Cost	“Estimated Project Construction Cost” shall mean Contractor’s written estimate in the form specified by the Agency of the total Construction Cost of the Project at the various stages of the design process.
1.38. Excusable Delay	“Excusable Delay” means a delay to the Schedule approved through a Change Order that entitles the Contractor to an adjustment of the Contract time for Substantial Completion, but not an adjustment of the Contract Cost.
1.39. Exhibit	“Exhibit” means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Contract Documents.
1.40. Field Order Directive	“Field Order Directive” refers to written instructions used in advance of a Construction Change Order, as more specifically prescribed in these Uniform Terms and General Conditions.
1.41. Final Completion	“Final Completion” means the date upon which the Work is complete in accordance with the terms and conditions of the Contract, including punch list items. The date of Final Completion shall be set by the Agency as a certain number of days after Substantial Completion. Any additional or supplemental Work after this date due to Construction Contractor error or omission shall be completed by the Construction Contractor without additional compensation.
1.42. Final Completion Certificate	The “Final Completion Certificate-Exhibit L” is the certificate issued by the Design Professional and/or the Agency Designated Representative that documents, to the best of the Design Professional’s and/or the Agency Designated Representative’s knowledge and understanding, that Construction Contractor has completed all Work required by the Contract Documents, including, but not limited to: all of the Punch List items and pre-final Punch List items for which it is responsible; final cleanup; and Construction Contractor’s provision of Record Documents, operations manuals, maintenance manuals, and any and all other Close Out Documents required by the Contract Documents and list on Exhibit M-Contractor Project Closeout.
1.43. Final Payment	“Final Payment” means the last and final monetary compensation the Agency will make to Contractor for any portion of the Project including any and all Work that has been completed and accepted for which payment has not been made, amounts to compensate for adjustments to the final Contract Sum resulting from approved Change Orders and release of Contractor’s retainage if any.
1.44. General Conditions of Contractor	“General Conditions of Contractor” means the Construction Contractor’s resources, equipment, and items used by the Construction Contractor in the Work of the Project that is used to complete the Project. The General Conditions Fee will be based on actual itemized, documented Cost.
1.45. Gratuity	“Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
1.46. Hazardous Waste; Release	“Release” means any discharging, disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pouring, pumping, releasing, spilling, or similar action or event. “Construction Contractor Hazardous Waste Release” means any Release of a Hazardous Substance on Agency’s property or adjoining property during the Work arising, in whole or in part, from acts or omissions of Construction Contractor or any Subcontractor.
1.47. Hazardous Substance	“Hazardous Substance” means a substance, material or hazardous waste which, by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritating or otherwise harmful, is likely to cause death or injury.



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1.48. Hazardous Waste	“Hazardous Waste” means “hazardous waste”, as defined in the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act (42 U.S.C. 6901, <i>et seq.</i>) and any successor statutes and any regulations, rules or guidelines promulgated pursuant thereto as in effect from time to time (including, without limitation, any such waste resulting from removal of, demolition or modifications of or additions to part or all of any existing structure, facility or equipment). “Contractor Hazardous Waste” means any Hazardous Waste arising during or from Work that is generated, in whole or in part, by the acts or omissions of Contractor or a Subcontractor.
1.49. Indemnified Basic Claims	“Indemnified Basic Claims” means any and all claims, actions, liabilities, damages, losses, or expenses, including court Costs, expert fees, attorneys’ fees, and Costs of claim processing, investigation and litigation, for any and all damage or equitable claims made against the Agency, including, but not limited to, personal injuries, death, property damages (real, personal, tangible or intangible), and injunctive relief. See paragraph 6.2.
1.50. Instructions to Offerors	“Instructions to Offerors” are those instructions in the Solicitation Documents.
1.51. Look Ahead Schedule	“Look Ahead Schedule” means a Schedule based on the updated Work Progress Schedule which shows the current portion of the Schedule. The current portion of the Schedule should reflect at minimum three (3) weeks before and beyond the date the Schedule is presented.
1.52. Materials	“Materials” means, as defined in A.R.S. § 41-2503(7) “all property, including equipment, supplies, printing, insurance, and leases of property [but] does not include land, a permanent interest in land or real property or leasing space.” Materials includes software, unless the software is sold or provided as a service under the Contract. Software sold or provided as a service under the Contract is both a Material (to the extent it consists of encoded information or computer instructions) and a service, as described in “Services”
1.53. Negotiation	“Negotiation” means, as defined in A.A.C. R2-7-101(32), an exchange or series of exchanges between the Agency and an offeror or Contractor that allows the Agency or the offeror or Contractor to revise an offer or Contract, unless revision is specifically prohibited by the Arizona Procurement Code.
1.54. Notice to Cure	“Notice to Cure” means a written letter to cure an event of default and/or an anticipatory breach of Contract setting forth a time limit in which the cure is to be completed or commenced and diligently prosecuted.
1.55. Notice to Proceed	“Notice to Proceed” means the written document from the Project Manager, by letter or email, informing Design Professional and/or Construction Contractor of the date designated as the date of commencement of construction and the date of Substantial Completion.
1.56. Offer; Best and Final Offer (BAFO)	“Offer,” and “Best and Final Offer” (“BAFO”) are each defined in the <u>Instructions to Offerors</u>.
1.57. Payment Bond	“Payment Bond” means a bond issued by a surety authorized to transact business in this State, issued in the amount for the Contract Cost and is payable to Agency, solely for the protection and use of Payment Bond beneficiaries. (Exhibit N)
1.58. Performance Bond	“Performance Bond” means a bond issued by a surety authorized to transact business in this State, issued in the amount for the Contract Cost and is payable to Agency, to guarantee the faithful performance of the Work by the Contractor in accordance with the Contract Documents. (Exhibit O)
1.59. Person	“Person” means any corporation, business, individual, firm, partnership, association, union, committee, club, or other organization or group of individuals.
1.60. Preconstruction Services	“Preconstruction Services” means services and other activities during the Design Phase.
1.61. Procurement Officer	“Procurement Officer” means the person, or his or her designee, who has been duly authorized by Agency to enter into and administer the Contract and to make written determinations with respect to the Contract. Procurement Officer is as identified on the Acceptance unless subsequently changed by Contract Amendment.
1.62. eProcurement System (APP)	“eProcurement System” means State’s official electronic procurement system, established pursuant to A.A.C. R2-7-201, as set forth in the Arizona Department of Administration State Procurement Office policy document Technical Bulletin No. 020, APP – The Official State eProcurement System. NOTE (1): Technical Bulletin No. 020 is available online at:



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	https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations NOTE (2): The URL for APP itself is: https://appstate.az.gov/
1.63. Product Data	"Product Data" means illustrations, standard Schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate Materials or equipment for some portion of the Work.
1.64. Project	"Project" means any and all activities necessary for realization of the Work. This includes but is not limited to design, Contract award(s), execution of the Work itself, and fulfillment of all Contract and warranty obligations.
1.65. Punch List	"Punch List" means a list of items of Work to be completed or corrected by Contractor after Substantial Completion. Punch Lists indicate items to be finished, remaining Work to be performed, or minor Work that does not meet quality or quantity requirements as required in the Contract Documents.
1.66. Record Documents	The term "Record Documents" shall mean those documents including, but not limited to, the updated version of the Construction Documents prepared by the Contractor incorporating any Attachments, Exhibits, Change Orders, and information from the As-Builts and other data furnished by Contractors to the Agency.
1.67. Request for Information	"Request for Information" (RFI) means a written request by Contractor directed to the Agency or Agency Designated Representative for a clarification of the information provided in the Contract Documents or direction concerning information necessary to perform the Work that may be omitted or unclear from the Contract Documents.
1.68. Reimbursable Expenses	"Reimbursable Expenses" means a limited range of direct, actual Costs approved by the Agency for which the Contractor can receive compensation under the Contract for amounts expended in the interest of the Project. Unless otherwise detailed in the Scope of Work or limited by other State policies, and subject to review and approval by the Agency, the following, and only the following, are the categories of Costs which may be Reimbursable Expenses: Subject to the Cost limitation of the State of Arizona Travel Policy, transportation Costs accrued in furtherance of Work and under the Contract and Agency authorized out-of-town travel and subsistence; Fees paid to governmental entities that ensure State compliance with any applicable laws or codes; Costs paid toward reproduction, plots, standard form documents, postal charges; If requested and approved by the Agency, Costs paid for surveys, requests and special requests. Contractor shall not exceed the approved Reimbursable Expense amount stated in the Contract without prior written approval of the Agency through a Contract Amendment.
1.69. Samples	"Samples" mean representative physical examples of Materials, equipment, or workmanship used to confirm compliance with requirements and/or to establish standards for use in execution of the Work.
1.70. Schedule	"Schedule" means the timetable which sets forth pertinent milestones, reviews, critical path of activities and other deadlines for timely completion of the Work for the Project prepared by Contractor and accepted by Agency. The Schedule shall not exceed the time limit current under the Contract Documents unless approved by Agency through a Contract Amendment.
1.71. Schedule of Values	"Schedule of Values" means the detailed breakdown of the original Contract Cost for the Materials, labor, and equipment necessary to accomplish the Design and/or Construction Work.
1.72. Scope of Work	"Scope of Work" means the Requirements Document of the Solicitation Documents. Scope of Work is inclusive of the Project program for design Work and the Construction Documents for performance of the construction Work.
1.73. Secure Locations	"Secure Locations" means those buildings and grounds (Sites) that require specific security-related criteria where access to the Work Site or the Site's daily operations negatively affects the Contractor's productivity on a daily basis.
1.74. Services	"Services" as defined in A.R.S. § 41-2503(35), means "the furnishing of labor, time, or effort by [the] [C]ontractor or [S]ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not



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	include employment agreements or collective bargaining agreements.” Services includes Building Work and the service aspects of software described in Materials.
1.75. Shop Drawings	“Shop Drawings” mean the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data prepared by Contractor or its Subcontractors which detail a portion of the Work.
1.76. Site	“Site” means the geographical location of the Work for the Project.
1.77. Solicitation; Solicitation Documents	“Solicitation” and “Solicitation Documents” are defined in the <u>Uniform Instructions to Offerors</u> .
1.78. Special Terms and Conditions	“Special Terms and Conditions” are contained in the Special Terms and Conditions section of the Solicitation Documents.
1.79. Specification	“Specification” has the meaning given in A.R.S. § 41-2561, which, for convenience of reference only, is “... any description of the physical or functional characteristics, or of the nature of a Material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a Material, service or construction item for delivery.” Specifications (if any are included in the Contract), are indexed in the <u>Scope of Work</u> and could be bound separately from the other documents forming the Contract.
1.80. State	With respect to the Contract generally, “State” means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, “State” means each eligible Agency who has issued the Order.
1.81. State Indemnitees	“State Indemnitees” means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.
1.82. State Fiscal Year	“State Fiscal Year” means the period beginning each July 1 and ending each June 30.
1.83. Stipulated Sum (Fixed Price/Lump Sum)	“Stipulated Sum (Fixed Price/Lump Sum)” means the complete and total amount the Construction Contractor is obligated to complete the Work barring unforeseen conditions, Agency change to the Scope of Work, or other circumstances set forth in the Contract.
1.84. Subconsultant	“Subconsultant” as defined in A.R.S. § 41-2571, means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has a direct Contract with Contractor or another Subconsultant to perform a portion of the Work.
1.85. Subcontract	“Subcontract” means any Contract, express or implied, between Contractor and another party or between a Subcontractor and/or Subconsultant and another party delegating, in whole or in part, the making or furnishing of any Materials, the performing of any Services, or the carrying out of any other aspect of the Work.
1.86. Subcontractor	“Subcontractor” as defined in A.R.S. § 41-2503(38), is “... a person who contracts to perform Work or render service to ... [C]ontractor or to another [S]ubcontractor as a part of a Contract with a state governmental unit . . .” The Contract is to be construed as “a Contract with a state governmental unit” for purposes of the definition. Any Person carrying out an element of the Work who is neither a Contractor nor a representative of the State is a Subcontractor from the moment that Person first carries out that element of the Work, regardless of whether a Contract exists between that Person and the Contractor, then or subsequently.
1.87. Submittal Register	“Submittal Register” means a list provided by Contractor of all items to be furnished for review and approval by Contractor and/or Agency and as identified in the Contract Documents including submittal dates.
1.88. Substantial Completion	Substantial Completion” means the date determined and certified by the Design Professional’s and/or Agency Designated Representative’s signature, when the Work, or a designated portion thereof, is sufficiently complete, in accordance with the Contract, so as to be operational, fit for the use intended, and so the Agency may occupy the Work.
1.89. Unconditional Waiver of Lien	“Unconditional Waiver of Lien” has the meaning defined in A.R.S. §33-1008. An Unconditional Waiver of Lien on Progress Payment is “where the claimant is required to execute a waiver and release in exchange for or in order to induce the payment of a Progress Payment and the claimant asserts in the waiver that it has been paid the Progress Payment”. Unconditional Waiver of Lien on Final Payment is “where the



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	claimant is required to execute a waiver and release in exchange for or in order to induce payment of a Final Payment and the claimant asserts in the waiver that it has been paid the Final Payment".
1.90. Uniform Terms and Conditions	The "Uniform Terms and Conditions" are made up of this document and whichever of the <u>Appendices</u> are indicated in the <u>Special Terms and Conditions</u> as being applicable.
1.91. Unit Price Work	"Unit Price Work" means the Work, or a portion of the Work, paid for based on incremental units of measurement.
1.92. Work	"Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor(s)'s obligations and duties under the Contract in conformance with the Contract and applicable laws. "Work" shall refer to any and all authorized Basic and/or Additional Work.
1.93. Work Progress Schedule	"Work Progress Schedule" means the continually updated time Schedule prepared and monitored by Contractor that accurately indicates all necessary appropriate revisions as required by the conditions of the Work and the Project while maintaining a concise comparison to the Schedule.

2.0 Contract Interpretation

2.1 Arizona Law	The Contract is governed by, and is to be interpreted in accordance with, the laws of the State of Arizona, including, but not limited to the Arizona Procurement Code, without consideration of conflict of laws principles
2.2 Contract Order of Precedence	1) COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary and all provisions are to be interpreted as a single, united contract. If certain Work, requirements, obligations, or duties are set out only in one but not in another, Construction Contractor shall carry out the Work as though the relevant Work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results. 2) CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, Contractor shall i) provide the better quality or greater quantity of Work or ii) comply with the more stringent requirements. If the foregoing requirements do not resolve the issue of inconsistency, conflict, or ambiguity, then the following contract documents and their provisions are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions within the same sub-section below, the document or provision with the latest date prevails; information being identified in one document but not in another is not to be considered a conflict or inconsistency: a) Change Orders, in reverse chronological order; b) Solicitation Documents, in this order: i) Special Terms and Conditions; ii) Exhibits to the Special Terms and Conditions; iii) Federal Terms and Conditions (for any Projects with federal funding) iv) Uniform Terms and Conditions; v) Scope of Work; vi) Exhibits to the Scope of Work; and vii) Any other documents referenced or included in the Solicitation; c) Accepted Offer d) Any Contract created as a result of an IGA and Project Proposal including Task Orders, Attachments, Exhibits, and Schedules created as part of, or under any Contract; e) Design Requirements; i) Specifications ii) Drawings (given dimensions take precedence over scaled measurements); f) Notice to Proceed; and g) Schedule



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2.3 Implied Terms	Each provision of law and any terms required by law to be in the Contract are a part of the Contract as if fully stated in it.
2.4 References to Statute	The above Definitions of Terms includes statutory language for convenience. If any definition in the Contract references a statute without modification, the current statutory language, not the stated definition in the Contract, will take priority in any interpretation of the Contract.
2.5 Usage	1) Where the Contract: Assigns obligations to the Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor" and all Subconsultants and/or Subcontractors whether or not they are first-tier, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subconsultants and/or Subcontractors respective agents, representatives, and employees" in every instance unless the context plainly requires that it is a reference only to Contractor as apart from Subconsultants and/or Subcontractors; Uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [Definitions]. For clarity of intent, any right given to Agency using "State may" or a like construction, denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that the Agency's discretion extends to whatever is in the best interest of the State; Uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [Definitions]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition; Uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written "must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes" in every instance; Uses the term "might" with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and Uses the term "will" or the phrases "is to be" or "are to be" with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that "shall" is either unnecessary or irrelevant in that instance.
2.6 Independent Contractor	Contractor is an independent Contractor and shall act in an independent capacity in performance under the Contract. Neither party is, or is to be construed to be, the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.
2.7 Severability	Any term or condition deemed or adjudged illegal or invalid is thereby stricken from the Contract and will not affect any other term or condition of the Contract.
2.8 Complete Integration	The Contract, including any documents incorporated into the Contract by reference and any authorized Contract Amendments and Change Orders, is intended by the parties to be a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing can independently bind the Agency to changes to the Contract. The Agency may avoid any unauthorized modifications to the Contract.
2.9 No Waiver of Rights	Either party's failure to insist on strict performance of any term or condition of the Contract is not, and is not to be construed as being, nor will it be deemed, a waiver of that term or condition or a bar to, or diminishment of the right of, subsequent enforcement of any term or condition.



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3.0 Contract Administration and Operation

3.1. Term of Contract	The term of the Contract will commence on the date indicated on the Acceptance and continue for the period specified in the Special Terms and Conditions unless canceled, terminated, or permissibly extended. If the Special Terms and Conditions do not specify a period, then the Contract will remain in force for that period required for Final Completion of the Work for the Project, including required extensions thereto, unless discontinued by any of the several provisions contained elsewhere in the Contract. Agency has no obligation to extend or renew the Contract past the initial term.
3.2. Contract Extensions	Agency may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the period specified in the Special Terms and Conditions. If the Special Terms and Conditions do not specify a period, then a reasonable period of time, but no more than an aggregate of 5 (five) years. Nothing herein shall negate Contractor's obligation to continuously perform the Work with adequate manpower and due diligence.
3.3. Notices and Correspondence	TO CONSTRUCTION CONTRACTOR. Unless stated otherwise in the Special Terms and General Conditions, Agency shall: a) Address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding APP Vendor Profile; and b) Address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated in the Construction Documents. TO AGENCY. Unless stated otherwise in the Special Terms and General Conditions, Contractor shall: Address all Contract correspondence and formal notices to the Agency Procurement Officer indicated in Exhibit A "Agreement." c) CHANGES. Agency may change the designated Procurement Officer, update contact information, or change the applicable mailing address. Notice is deemed served when emailed or mailed.
3.4. Contractor Performance Evaluation	The Agency may evaluate the Contractor's performance during the progress of the Work, at completion of a phase of Work for the Project, completion of the Work, or any of the foregoing. The State shall retain the evaluation(s) in the procurement file. The State will use the evaluation(s) in determining the responsibility of the Contractor for any award of a future contract for the next five (5) years. If the Contractor or any of the Contractor's Subconsultants and/or Subcontractors commit a breach of the contract for the project, the State will use the responsibility analysis for future projects for five (5) years after the date of breach of the Contractor's Subconsultants and/or Subcontractors (where applicable) for future contract awards with the State or Subcontracts on State Projects. Contractor may comment or take exception to any rating in accordance with the State's protest policies.
3.5. Signing of Contract Amendments	1) Contractor's counter-signature – or "approval" in APP, in the case of a Change Order – is not required to give effect if the Contract Amendment only covers either: a) Extension of the term of the Contract within the maximum aggregate term; b) Revision to Procurement Officer appointment or contact information; or c) Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other Material aspect of the Contract. 2) In every case other than those listed in a), b), and c) above, the signatures of all required parties – or "approval" in APP, in the case of a Change Order – is necessary to give it effect. 3) If the initial scope of the Project is changed materially by the Agency, the Contractor's compensation will be equitably adjusted through negotiation upon execution of a Contract Amendment.
3.6. Click-Through Terms and Conditions	Unless expressly stated otherwise in the Special Terms and Conditions, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering



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	System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized Agency user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized Agency user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.
3.7. Books and Records	1) RETAIN RECORDS. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subconsultant and/or Subcontractor to retain books and records relating for any Cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute. 2) RIGHT TO AUDIT. The retained books and records are subject to audit by Agency during that period. By A.R.S. § 35-214 and 41-2548(B), Contractor shall retain and shall contractually require each Subconsultant and/or Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by Agency during that period. 3) AUDITING. Contractor or Subconsultant and/or Subcontractor shall either make all such books and records under subparagraphs 2) and 3) available to Agency at all reasonable times or produce the records at a designated Agency office on Agency's demand, the choice of which being at Agency's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. Any Person who obstructs or impairs an audit being conducted or about to be conducted in relation to any contract or subcontract with the State may be found guilty of a class 5 felony under A.R.S. § 35-215.
3.8. Contractor Licenses and Registration	Contractor and all Subcontractors, Subconsultants, Persons, firms and/or entities in the service of Contractor shall maintain current licenses, registrations, including but not limited to registration under the Arizona Board of Technical Registration, and permits required for the operation of its business in general, for its operations under the Contract, and, unless expressly stated otherwise in the Special Terms and Conditions, for the Work itself.
3.9. Ownership of Intellectual Property	1) PRE-EXISTING MATERIAL. All pre-existing software and other Materials developed or otherwise obtained by or for Construction Contractor or its affiliates independently of the Contract are not part of the Work instruments of service to which rights are granted state under subparagraph 2) below, and will remain the exclusive property of Construction Contractor, provided that: a) any derivative Works of such pre-existing Material or elements thereof that are created pursuant to the Contract are part of the Work instruments set forth below; b) any elements of derivative Work of such pre-existing Material that was not created pursuant to the Contract are not part of that Work instrument; and c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Construction Contractor's or its affiliates' ownership of such pre-existing Materials. 2) JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party. 3) DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the <u>Special Terms and Conditions</u>, the Contract does not preclude Construction Contractor from developing competing Materials outside the Contract, irrespective of any similarity to Materials delivered or to be delivered to Agency hereunder. 4) OWNERSHIP AND USE OF DOCUMENTS. The Construction Contractor agrees all Project information, including but not limited to, notes, plans, Drawings, Specifications photos, studies, computer programs, Schedules, technical reports, prototypes and AutoCAD design backgrounds, or other Work instruments produced by the Construction Contractor under this Contract necessary to



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	complete the Work, are the property of the Agency. The Construction Contractor agrees to continue to supply the Project AutoCAD design backgrounds to the Agency for other projects outside the scope of this Contract, as requested by the Agency. The Construction Contractor shall also provide the Agency high quality copies on Agency-approved media of updated drawings and reproducible copies of specifications as specified. The cost of such copies will be reimbursed by the Agency to the Construction Contractor as a Reimbursable Expense. The Construction Contractor may not provide copies of or otherwise use the Work instruments in any format for the Project without the express prior written approval of the Agency. 5) The Construction Contractor agrees that items such as plans, Drawings, Specifications photos, studies, computer programs, Schedules, technical reports, or other Work products which is/are specified to be delivered under this Contract, and which is/are to be paid for by the Agency, is/are subject to the rights of the Agency in effect on the date of this Contract. These rights include the right to use, duplicate and disclose such items in whole or in part, in any manner and for whatever purpose, and to have others do so. The Construction Contractor shall not copyright or otherwise claim Ownership of the Work instruments of service for the Project. The Construction Contractor shall include in its Subconsultants and/or Subcontractors Contracts appropriate provisions to achieve the purpose of this section. 6) Construction Contractor shall give Agency full ownership of, including any and all necessary permissions to use, every aspect of the Work, unless explicitly excluded by law or contract, including the ability to create new structures based on the design Specifications and Drawings. 7) In the event of any dispute with the Construction Contractor regarding any breach or default of this Contract, the Agency shall have the right to possess and use any and all plans, Specifications, Drawings, documentation, reproductions, Design Requirements, and any other Materials necessary to complete the project. 8) Notwithstanding anything to the contrary, Agency, at all times, shall have unlimited rights to copy and use in connection with the Project any and all Design Requirements and/or Materials prepared by Construction Contractor for the Project at no additional Cost to Agency, regardless of degree of completion. Construction Contractor also grants to Agency a royalty free license to all such any and all Design Requirements and/or Materials to which Construction Contractor may assert any rights under patent or copyright laws. a) Construction Contractor hereby assigns outright and exclusively to Agency all copyrights to any and all Design Requirements and/or Materials created for, or used in, the Project. b) Construction Contractor, as part of its agreements with any Subcontractors and/or Subconsultants, will secure such license and use rights from each such entity to all copyrights to any and all Design Requirements and/or Materials created for, or used in, the Project, and shall defend, indemnify and hold Agency harmless from any claims by such entities for copyright or patent infringement.
3.10. Inspection and Testing	By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractor's or Subconsultant's plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors or Subconsultants) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own Cost, any finished goods, Work-in-progress, components, or unfinished Materials that are supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all Costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, Work, components, or unfinished materials will of itself constitute acceptance by State of those things. State inspection of, or failure to detect an issue, error, or omission at, the place of business or plant of a Contractor, Subcontractor, or Subconsultant does not, in any way, excuse that Contractor, Subcontractor, or Subconsultant from any obligation under this Contract.



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3.11. Subcontractors and Subconsultants	1) INITIAL LIST. Prior to Contract execution, Construction Contractor's candidate Subcontractors and/or Subconsultants were identified their Offer if required. 2) ADDITIONAL NAMES. Construction Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor or Subconsultant that (a) was not listed at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case (a) or (b), Construction Contractor shall submit a written request sufficiently in advance of the need date for those Materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it. 3) FLOW-DOWN. Construction Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontractor and/or Subconsultant agreement by inclusion or by reference. Subconsultants and/or Subcontractors shall incorporate the provisions, terms, and conditions of the Contract into their Subcontracts. When making any post-execution consent requests, Construction Contractor shall include its warrant that it will do the same for the pending Subcontractor and/or Subconsultant covered by the request. Entering into Subcontract and/or Subconsultant agreement will not relieve Construction Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the Work of Subconsultants and/or Subcontractors. Nothing contained in any Subcontract and/or Subconsultant agreement will create or is to be construed as creating any contractual relationship between Agency and the Subconsultants and/or Subcontractors.
3.12. Non-Discrimination	Contractor shall comply with [Arizona] State Executive Order No. 2009-09 and all other applicable federal and state laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.
3.13. E-Verify Requirements	As required by A.R.S. § 41-4401, Contractor and each Subconsultants and/or Subcontractors warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each Subconsultants and/or Subcontractors acknowledge that under A.R.S. § 41-4401, Agency retains the legal right to inspect the papers of any Contractor or Subconsultants and/or Subcontractors employee who Works under the Contract to ensure that Contractor or Subconsultants and/or Subcontractors employee is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a Material breach of the Contract that is subject to penalties up to and including termination of the Contract.
3.14. Offshore Performance of Certain Work Prohibited	Contractor shall only perform those portions of the Work that directly serve the Agency or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Specifications or the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to Work performed by Subconsultants and/or Subcontractors at all tiers.
3.15. Other Contractors	1) Agency may undertake with its own forces or award other Contracts to the same or other vendors for additional or related Work. 2) In such cases, Contractor shall cooperate fully with Agency's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its Work to the related Work by others. 3) Where the Contract requires handing-off Contractor's Work to others, Contractor shall cooperate as Agency instructs regarding the necessary transfer of its Work product, services, or records to Agency or the other vendors. 4) Contractor shall not commit or permit any act that interferes with the Agency's or other vendors' performance of their Work, provided that, Agency shall enforce the foregoing section equitably among all its vendors so as not impose an unreasonable burden on any one of them. 5) Agency shall be reimbursed by Contractor for Costs incurred by Agency because of delays, improperly timed activities, or defective construction by Contractor.



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	Agency will equitably adjust the Contract by Change Order for Costs incurred by Contractor because of delays, improperly timed activities, damage to the Work or defective construction by an Agency separate Contractor. 6) Should the Work be interrupted or hindered by the Agency or Contractor, the Contractor shall be entitled to an extension of time pursuant to the paragraph "Change Orders" in an amount equal to such interruption or hindrance but such interruption or hindrance shall not constitute a claim for damages nor for loss of anticipated profits by the Contractor.
3.16. Work on State Premises	1) COMPLIANCE WITH RULES. Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance even if those particular requirements are not expressly stated in the Contract. 2) PROTECTION OF GROUNDS AND FACILITIES. Contractor shall deliver and perform the Services without damaging any State grounds or facilities. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under the Contract.
3.17. Advertising, Publishing and Promotion of Contract	Contractor shall not advertise, promote, or otherwise use information concerning the Contract for commercial benefit without the prior written approval of Procurement Officer, which approval Procurement Officer may withhold at his or her discretion.
4.0 Costs and Payments	
4.1. Additional Work	1) Compensation for Additional Work will be in accordance with basis for compensation established in the Contract. 2) Compensation for Additional Services will be determined either on a Standard Hourly Rate with a Not-to-Exceed-Maximum-Amount ("Standard Hourly Rate") fee basis in Contract or as a Stipulated Sum fee basis, as amended to the Contract, through Contract Amendment or Change Order, by the Procurement Officer. 3) Before Additional Work may be performed or additional Costs incurred beyond the specified approved Contract for the Project, both the Agency and Construction Contractor must execute a written Contract Amendment or Change Order. 4) The Agency is not responsible for actions of the Construction Contractor or its Subconsultants and/or Subcontractors for any Costs incurred by the Construction Contractor or its Subconsultants and/or Subcontractors relating to Additional Work prior to the execution of a Contract Amendment or Change Order. 5) Any Additional Work must be performed within the time period established in the Contract Amendment or Change Order for the Project. 6) The Agency shall only approve of requests for Additional Work due to: - need for additional design; - acts or omissions of the Agency; - significant changes to the Project; or - need to provide services due to the default of another Contractor.
4.2. Applicable Taxes	1) CONTRACTOR TO PAY ALL TAXES. Agency is subject to Arizona Transaction Privilege Tax (TPT). Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractors' responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the <u>Commercial Document</u>, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political



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	subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel. 2) TAX INDEMNITY. Contractor shall hold Agency harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well any related Costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.
4.3. Application for Payment, Contractor	1) The Construction Contractor shall submit to the Agency an itemized Application for Payment completed and accepted in accordance with the Schedule of Values. Such application shall be supported by such data substantiating the Construction Contractor's right to payment as the Agency requires below, and reflecting retainage, if applicable. 2) The Application for Payment (Exhibit H) shall: - be an accurate reflection of the progress of the Work; - contain line items based on the Schedule of Values; - bear the notarized signature of Construction Contractor; - bear the signature of the Design Professional if contracted to perform Construction Phase Services; - only be paid after approval by the Agency Designated Representative; and - not include Subcontracted items or any other items for which Construction Contractor does not intend to pay. 3) Unless otherwise stated in the Special Terms and Conditions, the Construction Contractor is required to include the following, at a minimum: - Construction Contractor Name and Address; - Subcontractor's Name, Remit to Address and Contact Information, and - All backup documentation to Application for Payment, detailed prior to showing subtotals for each item for Construction Contractor and Subcontractor (e.g., labor detail, Materials, and tax listed in separate line items). 4) Applications for Payment may include requests for payment on account of changes in the Work which have been properly authorized and executed by the Agency in Change Orders. 5) Applications for Payment may not include requests for payment of amounts the Construction Contractor does not intend to pay to a Subcontractor or Material supplier because of a dispute or other reason. 6) Applications for payment shall be made on account of Materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work. - If approved in advance by the Agency, payment may similarly be made for Materials and equipment suitably stored off the Site at a location agreed upon in writing in accordance with Arizona General Accounting Office policies. - Payment for Materials and equipment stored on or off the Site shall be conditioned upon compliance by the Construction Contractor with procedures to establish the Agency's title to such Materials and equipment or otherwise protect the Agency's interest, and shall include applicable insurance, storage and transportation to the Site for such Materials and equipment stored off the Site. 7) The Construction Contractor further warrants that upon submittal of any Progress Application for Payment all Work for which Applications for Payment have been previously issued and payments received from the Agency shall, to the best of the Construction Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Construction Contractor, Subcontractors, Material suppliers, or other persons or entities making a claim by reason of having provided labor, Materials, and equipment relating to the Work by also submitting a Conditional Waiver of Lien form with the Application for Payment. 8) At the time of submittal for payment of retainage, if requested by the Construction Contractor prior to the Final Application for Payment, and at Final Application for Payment, Construction Contractor shall provide the Agency with all items contained in Contractor Project Closeout-Exhibit M. 9) Agency shall not accept improper or incorrect Application for Payment until corrections have been made.



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	10) A Progress Payment shall not be made to Construction Contractor until the Application for Payment has been certified. 11) Final Payment shall not be made to Construction Contractor until a Final Completion Certificate has been issued.
4.4. Application for Payment Certification by Contractor	The Contractor will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts based on the Contractor's inspections, observations and evaluations of the Contractor's Applications for Payment for the Work accepted and in conformance to the Contract.
4.5. Automated Clearing House	Agency may pay invoices through an Automated Clearing House (ACH). In order to receive payments in this manner, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at: https://gao.az.gov/afis/vendor-information
4.6. Availability of Funds	By A.R.S. § 35-154, every State payment obligation under the Contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the Contract, State may terminate the Contract at the end of the period for which funds are available, or, at State's discretion, allow appropriate amendment to the Contract. No liability will accrue to State if it exercises the foregoing right or discretion, and State will have no obligation or liability for any future payments or for any damages as a result of having exercised it.
4.7. Basis of Compensation; Contractor	1) The Agency will compensate the Contractor monthly upon the Agency acceptance and approval of the application for Progress Payment for the Scope of Services described in the approved Contract, as it may be subsequently amended, upon receipt of an accurate monthly billing statement providing evidence of expenses. 2) No advance payment will be made to the Contractor prior to rendering services. 3) Payments for Basic Work will be made monthly in proportion to services performed within each phase of services as reasonably determined by Agency. Agency shall have the right to review and inspect any and all records including, but not limited to, time sheets and Work product of Contractor, in order to determine whether the amount requested is accurate. Payment applications will be reviewed by the Agency to ensure the following information is included and correct or Agency will not approve the payment: a) Figures on the payment application shall be accurately calculated; b) Labor rates, Reimbursable Expenses, fixed fee, Subconsultant rates, overhead and fringe benefits listed on the payment application shall be consistent with the terms of the Contract; c) Charges included on the payment application shall be for Work included in the Contract or an amendment to the Contract, and shall be tied directly to the tasks outlined in the Contract; d) Contractor principals shall bill at staff rates when acting as staff. Principals may only bill at the hourly rate of Principals when acting in that capacity. e) The Contractor shall provide documentation with each payment request that clearly indicates how that individual's time is allocated and the justification for that allocation; f) Subconsultants and/or Subcontractors is an approved Subconsultants and/or Subcontractors in the Contract or a Contract Amendment and any Subconsultants and/or Subcontractors approved for a specific discipline is being paid when Work in that discipline is performed; g) Reimbursable Expenses claimed are permitted under the terms of the Contract and supporting documentation is provided with the invoice; and h) If invoice has item(s) in dispute, Contractor may resubmit an invoice for the undisputed amount or wait for payment until the dispute has been resolved. 4) Contractor shall not be entitled to receive payment until they have provided Agency with conditional and/or unconditional lien waivers, including waivers from Subconsultants and/or Subcontractors, along with a detailed description of Services and such other documents showing compliance with the terms of the



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	Contract as Agency may reasonably require in connection with requests for payment.
4.8. Contracted Labor Rate	1) The contracted labor rates are the fully-burdened and marked-up billing rates for Contractor's labor Exhibit C 2) The rates are deemed to be inclusive of the actual gross wages plus all: a) Applicable payroll taxes, non-payroll employer burden, workers' compensation contributions and health and welfare benefit contributions; b) Retirement or other pension contributions, vacation, sick time or other paid leave allowances and the like; c) Required home office support, corporate or subordinate licenses or registrations, corporate insurance, professional association fees, advertising, time and travel by any of Contractor personnel other than billable personnel and any bonuses or other incentives for all personnel (including billable Personnel); d) Insurance coverages to be provided by Contractor under the Contract; and e) Profit. 3) The rates are not subject to overtime or other premium time unless expressly stated otherwise. 4) Prior to Contractor finalization of Subconsultants and/or Subcontractors contracts, the Agency shall review and approve Subconsultants and/or Subcontractors hourly rates.
4.9. Contract Payment Retention	To the extent that Contracts for Construction do not include Design Services, preconstruction services, finance services, maintenance services, operations services or any other related Services, Retention amounts in Progress Payments shall be retained or made in accordance with A.R.S. § 41-2576. Contractor may elect to substitute security in the same amount as the retainer in lieu of retention pursuant to A.A.C. R2-7-509 and R2-7-510. The Agency shall not accept any substitute security unless it is accompanied by a signed and acknowledged waiver of any right or power of the obligor to set off any claim against either the Agency or the Contractor in relationship to the security assigned pursuant to A.R.S. § 41-2576(D). The Agency will retain 10% of the amount of each estimated Progress Payment until final completion and acceptance unless, upon written request from the Contractor, at the half-way point of the Project (as determined by the Work Progress Schedule) if the Agency has determined that the Work is satisfactory, then half of the retainer will be released to the Contractor. If the Agency determines that this condition has been met, then the percentage of subsequent retainers will decrease from 10% to 5%. At any subsequent point in the Project, if the Agency finds that the Contractor's Work is less than satisfactory, then the retainer will revert to 10%. Absent a specific written finding by the Agency with a reason to delay the release of the retained amount, the retainer described in this section will be released within sixty (60) days of the Agency's acceptance of the Work and approval of the Application for Final Payment. If the Agency determines that the Work is not acceptable for any reason, it must make a specific written finding of the reason why the Work is not acceptable; then may retain an amount of payments sufficient to pay or discharge the expenses the Agency reasonably expects to incur to correct the issue with the Work that was not set forth in the written finding.
4.10. Final Completion and Payment	1) When Construction Contractor deems Work fully complete, Construction Contractor will notify Agency. 2) A Certificate of Final Completion shall set forth the date of Final Completion and shall be executed by Agency and/or Design Professional. 3) Neither Final Payment nor any final release of retention will be made until Construction Contractor submits the following documents to Agency: a) Affidavit that payments, bills for equipment and Materials, and all indebtedness incurred for Construction have been paid or satisfied;



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	b) Certificate evidencing that insurance required by Contract Documents remains in force pursuant to the terms of the Contract and will not expire until 30 days written evidence is given to Agency; and c) Any items required by Exhibit M-Contractor Project Closeout.
4.11. Delay	1) Pursuant to A.R.S. § 41-2617, if the Construction Contractor incurs damages due to a delay for which the Agency and the Construction Contractor agree is (a) the fault of the Agency, (b) unreasonable under the circumstances, and (c) was not already contemplated by the terms of the agreement, then the Agency and the Construction Contractor may negotiate for the recovery of those damages. In this case, if the Construction Contractor sustains damages, which could not have been avoided by the judicious handling of forces, equipment and materials; or by reasonable revision in the Construction Contractor's schedule of operation, the compensation for such damages will be negotiated. The Construction Contractor shall notify the Agency of the condition in writing by the next work day. Failure to notify the Agency within this time may be just cause to reject any claims for such damages. 2) DELAYS THAT RESULT IN A MATERIAL CHANGE TO THE DATE OF SUBSTANTIAL COMPLETION MAY RESULT IN LIQUIDATED DAMAGES. Agency may assess Liquidated Damages (as detailed in the Special Terms and General Conditions) for unexcused and/or unauthorized delays, caused by the Construction Contractor, or any of its Subconsultants or Subcontractors, that result in a material change to the date of Substantial Completion of the Work. Construction Contractor is responsible for any reasonably foreseeable causes of delay. 3) TIME EXTENSION. Within one business day after the Construction Contractor should have reasonably known of the occurrence prompting the request for an extension of time, the Construction Contractor must deliver a preliminary written notice to the Agency describing the general nature of the request. Within a reasonable time after the preliminary notice, the Construction Contractor must provide the Agency written supporting documentation stating all known time extensions to which the Construction Contractor is entitled. Construction Contractor may submit written time extension requests to the Agency for approval if the Construction Contractor is delayed through no fault of its own. 4) CONCURRENT DELAYS. To the extent the Construction Contractor is entitled to an extension of time due to an Excusable Delay but the performance of the Work would have been suspended, delayed or interrupted by the fault or neglect of the Construction Contractor and/or any of its subcontractors/subconsultants, and suppliers, the Construction Contractor shall not be entitled to any additional Costs for the period of such concurrency. 5) CHANGE ORDER. Any requests for time extensions must be approved by Agency and/or Design Professional through the use of a Change Order.
4.12. Equipment Rental	Contractor rental of construction equipment to perform the Work shall be recorded and billed to the Agency to the nearest one-half hour and shall cease when equipment is no longer necessary for the Work. Billing shall include sales tax, the Cost of transportation, loading, unloading, and dismantling and removal thereof in accordance with the rental agreement terms and Agency approved Contractor markup for overhead and profit. Rates for Contractor owned equipment shall be approved by Agency prior to equipment use. Contractor shall not charge Agency for equipment that is inoperable due to breakdown or used for Work not related to the Project.
4.13. Invoicing Requirements	1) Contractor shall only submit invoice that match the prices in the Contract, including the pricing in any authorized Change Order or Contract Amendment. 2) Contractor shall comply with the following requirements for the submittal of invoices to the Agency. The Agency may, in its discretion, choose to deny all or some of an invoice due to the Contractor's failure to fully comport invoices to these requirements: a) TRAVEL. Travel Costs will be reimbursed according to the policies and procedures set by the State of Arizona's General Accounting Office as specified in the Contract. See http://www.gao.az.gov/travel/ for Current



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	Policies. Any anticipated travel Costs should be detailed as a line item in Contractor's fee proposal. b) LODGING, SUBSISTENCE, AND MILEAGE. Contractor and Agency must agree upon any lodging and subsistence Costs before these Costs are incurred for the Contractor to receive reimbursement for these Costs. If lodging and subsistence Costs are incurred fifty (50) or more miles from the Contractor primary place of business, then the invoice must include all receipts associated with these Costs for full reimbursement. Contractor will only be reimbursed for mileage for travel fifty (50) or more miles from the Contractor's primary place of business. c) PREVIOUS MONTH. Contractor shall only submit invoices for authorized and accepted Work, and Reimbursable Expenses for the previous month less any applicable penalties. d) INVOICES MUST BE VERIFIED. Contractor shall bear the primary responsibility for the validity of any and all invoices, and shall certify that its invoices have been examined and that the contents therein are accurate and consistent with the Contractor's books of account. e) INVOICE REQUIREMENTS STRICTLY ENFORCED. Agency reserves the right to reject, or partially pay, any invoices that are improperly addressed, or contain inaccurate or incomplete information. Agency is not responsible for any financing or other charges due to payments that are late due to Contractor error. f) FINAL INVOICE. Contractor shall submit an invoice that contains a clear designation that it is the "Final" invoice when the Work is complete. Agency is under no obligation to release payment on a Final Invoice until the Contractor has fully documented the Final Completion of the Work and Agency has reviewed and agreed with the amount due on the Final Invoice.
4.14. Interest	Payments to Contractor are issued pursuant to A.R.S. § 35-342. If payments to Contractor are allowable and 30 days past due, interest shall accrue at the rate detailed in A.R.S. § 44-1201.
4.15. Payment	1) PAYMENT NOT ACCEPTANCE. Agency payment of any invoice or Application for Payment shall not be construed to be acceptance of the Work. 2) PAYMENT DEADLINE. Agency shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Contract, Agency shall make payment in full for Materials that have been delivered and accepted and Work that has been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: a) All of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Work being invoiced have been performed and accepted; and b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Contract and reasonably required by Agency, provided that, the Agency will not make or be liable for any payments to Contractor until Contractor has registered properly in APP and provided a current IRS Form W-9 to Agency unless excused by law from providing one. 3) PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, Agency shall make payment to Contractor under the federal tax identifier indicated on the Accepted Offer provided.
4.16. Project Suspension by Agency	If the Project is suspended or abandoned in whole or in part for more than six (6) months by the Agency, the Contractor will be compensated for only the following: all Work performed prior to receipt of written notice from the Agency of such suspension or abandonment together with Reimbursable Expenses then due. The Agency will not be liable for any additional expenses or any damages, including but not limited to consequential damages. If the Project is resumed after having been suspended for more than six (6) months, the Contractor's compensation may be equitably adjusted



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	through negotiation. If the parties cannot agree on an adjustment, Agency may terminate the Agreement.
4.17. Recovery of Overpayment	If Agency determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.
4.18. Reimbursable Expenses	Reimbursable expenses may be billed in accordance with Uniform Terms and Conditions for amounts expended in the interest of the Project. Contractor shall not exceed the approved reimbursement amount without prior written approval of the Agency through a Contract Amendment.
4.19. Scrap or Surplus Material	Pursuant to A.R.S. 41-2602, et seq., The Contractor may not sell any resulting from production under this Contract without requesting the Agency Procurement Officer's approval, unless stated otherwise in the Special Terms and Conditions.
4.20. Standard Hourly Rate Basis for Work	For Projects compensated on a Standard Hourly Rate basis, the invoice statement for all Applications for Payment must show the name of all employees and Subconsultants and/or Subcontractors charging time to the Project, the amount of time billed, the fully burdened hourly rates, and the activities performed by each person listed. If requested by Agency, payroll time sheets and any other documents reasonably requested by Agency to verify amounts requested, shall be provided.
4.21. Stipulated Sum (Fixed Price/Lump Sum) Basis for Work	For Projects compensated on a Stipulated Sum basis, the invoice statement for Application for Payment must include a brief summary of the progress and completion of tasks in accordance with the Work to substantiate the percentage of completion of Work by phase during the time period covered by the Application for Payment. Any Costs in excess of approved maximum not to exceed Contract amount incurred prior to Agency's written consent will not be paid unless Costs were incurred at the Agency's direction.
4.22. Notification of Payments	Any Contractor, Subconsultants and/or Subcontractors, or Subcontractor may notify the Agency in writing requesting that it be notified by the Agency in writing within five days from payment of each progress payment made to the Contractor. If a request is made to the Agency as described in this paragraph, the request remains in effect for the duration of the requestor's Work related to this Contract pursuant to A.R.S. § 41-2577. Note that this paragraph in no way limits the Contractor's and/or Contractor's ability to withhold any application or certification due to issues related to the Work of a Contractor, Subconsultants and/or Subcontractors, or Subcontractor as described in A.R.S. § 41-2577(D).

5.0 Contract Changes

5.1. Assignments and Delegation	1) NOTICE AND ASSIGNMENT OF TRANSFER OF OWNERSHIP. In additions to Sections 5.2 and 5.3 below, the Agency will require immediate notice and explicit assignment, pursuant to this Section, of any change to the underlying ownership of the Contractor. For the purpose of this Section, a change in ownership is defined by the transfer of any ownership interest or control of fifty percent or more of the Contractor, regardless of the form under which the Contractor conducts its business. 2) IN WHOLE. Contractor shall not assign in whole or in part its rights or delegate in whole or in part its duties under the Contract without (a) notifying the Procurement Officer in advance and (b) obtaining the Procurement Officer's prior written consent, which the Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or any other change in control, then no such consent will be given in any event without the assignee or delegate giving the Agency satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when Agency first awarded it the Contract. Such determination shall be made by the Procurement Officer at its sole discretion.
5.2. Contract Amendments	The Contract is issued for Agency under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope.



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5.3. Unauthorized Contract Amendments or Orders are Void	Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes. The Contractor is on notice that any course of conduct dealings cannot bind the Agency to any changes to the Contract; the Agency may avoid any unauthorized modifications to the Contract, Contract Amendments, or Change Orders.
5.4. Change Orders	1) The Agency will only compensate for and the Construction Contractor shall only deliver or perform Additional Work that has been approved by the Agency through a fully authorized Change Order. 2) CHANGE ORDER TERMS. All Change Orders are subject to the Contract Terms and Conditions except to the extent they are modified by Change Order. 3) REASONABLE TIME FOR REVIEW. Both parties to the Contract agree to allow a reasonable period of time for the review and consideration of any requested Change Orders. 4) FIELD ORDER DIRECTIVES (See Exhibit I). Field Order Directives should be followed by a Change Order within a reasonable time. The Not-to-Exceed Cost detailed in the Field Order Directive is enforceable against the Construction Contractor if the Agency and Construction Contractor are unable to agree to a price through a Construction Change Order. 5) ITEMIZATION OF WORK. The Construction Contractor shall include the proposed Cost itemized breakout including Subcontractor or Subconsultant pricing by Work division labor and Materials, at a minimum to include: General Conditions, Overhead and Profit, Total- Labor Costs, Total Materials Cost, Equipment, Field Office and Job Site Supervision, Bonds, Insurance, and applicable tax. Failure of Construction Contractor to submit itemized Cost information with the Change Order Request will delay processing through no fault of the Agency. 6) ADDITIONAL TIME FOR DELAY. Construction Contractor must submit any request for an Excusable Delay within one business day after the Construction Contractor should have reasonably known of the occurrence prompting the request for an extension of time. a) Any Construction Contractor request for an Excusable Delay must be made through Construction Contractor initiation of a Change Order Request and written notice to the Agency. b) Failing to timely and properly provide written notice of the Delay, which must include a request through a Change Order Request, will waive Construction Contractor's ability to negotiate increased time to complete the Work. c) The Construction Contractor's request shall include an estimate of Cost and of probable effect of delay on the Work Progress Schedule. Adverse weather conditions shall not be a basis for a claim for additional Costs. 7) FUEL SURCHARGES. Under no circumstances will the Agency accept any fuel surcharges on any Change Order request or Construction Contractor Pay Applications 8) CONSTRUCTION CONTRACTOR AND SUBCONTRACTOR MARKUP. The combination of overhead and profit shall not exceed the original percentage mutually agreed upon value of labor and Material for Work performed by any Construction Contractor or subcontractor for any Change Order or 5%, whichever is greater. 9) CONSTRUCTION CONTRACTOR ADDITIONAL WORK. Any Additional Work caused by Construction Contractor error, inconsistency, ambiguity, or otherwise conduct of Construction Contractor shall not constitute a change, and such Work will be performed at no additional cost to Agency. 10) AGREEMENT ON CHANGE ORDER. Agreement on any Change Order shall constitute a final settlement of any and all matters relating to the change in the Work which is the subject of the Change Order including, but not limited to, any and all direct and indirect costs associated with such change and any and all adjustments to the Contract sum and the Schedule.
5.5. Field Order Directive	1) The Agency may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, the Contract Cost and time for Substantial Completion being adjusted accordingly.



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	2) A Field Order Directive (Exhibit I) shall be used in the absence of total agreement on the terms of a Change Order. 3) If the Agency and the Contractor cannot agree as to what amount should be charged for the Field Order Directive, Contractor shall only be entitled to be reimbursed for actual direct labor and material Costs incurred at the construction site attributable to the change plus 5% for overhead and profit. Contractor shall keep detailed records of all such Costs and submit such records to the Agency on a weekly basis. Within ten (10) days of completion of the change and the submission of all Cost data to the Agency, the Agency shall determine the total allowable Costs for the purpose of pricing and paying for the additional work required by the Field Order Directive and advise the Contractor of such determination in writing. This determination shall be final and binding unless Contractor objects in writing within ten (10) days of this determination. The written objection shall contain a detailed statement of those elements and items of the determination with which the Contractor disagrees with an adequate explanation forming the bases of the disagreement. The parties shall then make a good faith effort to resolve the disagreement within fifteen (15) days. If the parties still fail to agree, the dispute shall be submitted to the Procurement Officer. The Procurement Officer shall determine the Costs and notify the Contractor in writing of his or her determination. If the Contractor disagrees with the Procurement Officer's determination, the Contractor shall immediately initiate the contract claims resolution process in the Arizona Procurement Code (A.A.C. R2-7-B901, <i>et seq.</i>) 4) When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change. 5) It is understood that a change may occur so that there is The amount of credit to be allowed by the Contractor to the Agency for a deletion or change which results in a net decrease in the Contract Cost shall be actual net Cost as confirmed by the Contractor or Agency. 6) Pending final determination of Cost to the Agency, amounts not in dispute may be included in applications for payment. 7) For any disagreement between the Contractor and Agency on the adjustment in Contract time or the method for determining it, the adjustment or the method shall be referred to the Agency for determination. 8) When the Agency and Contractor agree with the determination made by the Contractor concerning the adjustments in the Contract Cost and Contract time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.
5.6. Minor Changes in the Work	The Contractor, with the Agency's approval, has the authority to order minor changes in the Work not involving adjustment in the Contract Cost or extension of the Contract time and not inconsistent with the intent of the Contract. Such changes shall be effected by written order and shall be binding on the Agency and Contractor. The Contractor shall carry out such written orders promptly.
5.7. Claims	If Contractor aware of any act, omission, or condition that would give rise to a breach of Contract or a Change Order and/or claim, Contractor shall notify Agency in writing within 48 hours after becoming aware of such act, omission, or condition. This notice shall provide sufficient detail so that the claim may be properly evaluated in a timely manner. Failure to give such notice shall be deemed a waiver of the right of the Contractor to recover.
6.0 Risk and Liability	
6.1. Risk of Loss	If applicable, Contractor shall bear all risk of loss and damages caused by construction drawings, specifications, or other construction documents prepared by Contractor and used by Contractor in bidding and constructing the project to the extent that such documents are ambiguous, incomplete, contain errors or inconsistencies or fail to comply with any applicable codes, regulations and laws.



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6.2. Basic Indemnification	1) CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). If the Work is performed in connection with a public building or improvement, the Contractor, and any and all of its Subconsultants and/or Subcontractors under this Contract, shall indemnify and hold harmless the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees, from liabilities, damages, losses and Costs, including reasonable attorney fees and court Costs (including, but not limited to, primary loss investigation, judgment Costs, expert witness fees, and any and all fees and Costs from appellate proceedings), but only to the extent caused by the negligence, recklessness, or intentional wrongful conduct of such Contractor or other persons employed or used by such Contractor or Subconsultants and/or Subcontractors in the performance of the Contract or subcontract, as allowed under A.R.S. Section 41-2586 (C) and A.R.S. Section 34-226. The amount and type of insurance coverage requirements set forth in the Contract shall not be construed as limiting the scope of the indemnity in this paragraph. 2) This indemnity shall not apply if the Contractor or Subconsultant(s) and/or Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.
6.3. Patent and Copyright Indemnification	1) CONSTRUCTION CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Construction Contractor Indemnitor for performance under the Contract, Construction Contractor shall indemnify, defend and hold harmless the State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees against any third-party claims for liability, Costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph: a) Agency shall provide reasonable and timely notification to Construction Contractor of any claim for which Construction Contractor may be liable under this paragraph; b) Construction Contractor, with reasonable consultation from Agency, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise. Construction Contractor shall provide the Agency with notice of settlement negotiations and allow the Agency to participate in negotiations, if Agency so chooses; c) Agency may elect to participate in such action at its own expense; and d) Agency may approve or disapprove any settlement or compromise, provided that, Agency shall not unreasonably withhold or delay such approval or disapproval and Agency shall cooperate in the defense and in any related settlement negotiations. 2) If Construction Contractor is a public agency, this paragraph does not apply.
6.4. Force Majeure	1) DEFINITION. For this paragraph, "force majeure" means an occurrence that is a) beyond the control of the affected party, b) occurred without the party's fault or negligence, and c) something the party was unable to prevent by exercising reasonable diligence. 2) Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and subject to paragraph 6.5 "Performance in Public Health Emergency," declared public health emergencies. 3) Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure. 4) RELIEF FROM PERFORMANCE. Except for payment of sums due at the time of Force Majeure, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall provide written notice to the



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	other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing. 5) DELAY CAUSED BY FORCE MAJEURE IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits or any other consequential damages if and to the extent that such failure was or is being caused by an occurrence of force majeure. 6) DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.
6.5. Performance in Public Health Emergency	1) Construction Contractor warrants that it will: a) Have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: i) identification of response personnel by name; ii) key succession and performance responses in the event of sudden and significant decrease in workforce; and iii) alternative avenues to keep the project consistent with its Schedule or sufficient product on hand or in the supply chain; and iv) Provide a copy of its current plan to Agency within three (3) business days after Agency's written request. If Construction Contractor claims relief under the paragraph "Force Majeure" for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Construction Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable. 2) For clarification of intent, being obliged to implement the plan is not of itself an occurrence of Force Majeure, and Construction Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a Material breach of contract.
6.6. Safety Standards	1) Construction Contractor shall provide Materials and Services under this Contract that comply with all current applicable safety standards and regulations, including but not limited to, the Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards and any other standard references in the Contract. 2) Construction Contractor shall provide necessary protection, take all precautions for and monitor the safety of Construction Contractor personnel, Subcontractors, and Subconsultants and/or Subcontractors during the performance of Work. 3) Construction Contractor is obligated to act to prevent threatened damage, injury or loss of persons, the Work, or property at the Site or adjacent thereto in emergencies affecting the safety or protection thereof.
6.7. Third Party Antitrust Violations	Contractor assigns to Agency any claim for overcharges resulting from antitrust violations to the extent that those violations concern Materials or services supplied by third parties to Contractor toward fulfillment of the Contract.
7.0 Warranties	



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7.1 Liens	Contractor warrants that the Materials and Services when accepted will be and will remain free of liens or other encumbrances.
7.2 Guarantees and Warranties	1) Contractor warrants that it has conducted and performed internal checking of any and all Design Requirements to ensure proper layouts and dimension completeness and clarity, and through due diligence has no knowledge of any inconsistencies, ambiguities, errors, commissions, or conflicts with regard to such Design Requirements. 2) Contractor warrants that it has advised Agency in writing of the need for any tests, studies, analysis or Subconsultant services for the development of design documents. 3) Contractor warrants that construction drawings and specifications submitted for bidding or negotiation with a Contractor are complete, accurate, unambiguous and in compliance with all applicable codes, laws and ordinances. 4) Contractor warrants that it is financially solvent and possesses sufficient experience, licenses, personnel, and capital to complete the services for the Agency. 5) Contractor warrants that it has visited the Project Site, is thoroughly familiar with the conditions of the Site, and will correlate its observations with the construction Design Requirements. 6) Contractor warrants that it shall be responsible for any and all defects in the construction drawings and specifications, and other design documents prepared by Contractor and/or Subconsultants and/or Subcontractors, that are caused by the Contractor, Subconsultants and/or Subcontractors, or any other person or firm hired by the Contractor. 7) Design Professional warrants that its construction drawings and specifications are sufficient for the intended purpose of any and all improvements to be constructed pursuant to the design documents required under this contract. 8) Contractor warrants that the construction drawings and specifications may be built at the Site and that construction and completion of the project will not violate any zoning ordinance or use restrictions imposed by any governing authority. 9) Contractor warrants that all personnel or Subconsultants and/or Subcontractors used for construction administration services shall have sufficient knowledge and experience to properly carry out the duties required for the Work. 10) Contractor shall provide any written and signed standard warranty, and any written notarized and signed special warranty document(s) required for the Project after substantial completion but prior to final acceptance of the Work, stating warranty coverage for Materials and defects in accordance with the plans and specifications. Warranty requirements not listed in the plans and specifications shall be the greater duration of either the manufacturer standard warranty period or such duration allowed by law. 11) Contractor warrants that Work performed under this contract conforms to the contract requirements and is free of any defect in equipment, Material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This workmanship warranty shall continue for a period of at least two (2) years or such time as permitted by law, whichever is greater. 12) Contractor warrants that it has reviewed the Site and found that it is suitable for the Project. 13) Contractor warrants that it has reviewed the Specifications, Drawings, and any and all applicable Construction Documents and Design Requirements and has notified the Agency of any errors or inconsistencies. 14) The Contractor shall repair or replace such defective Materials, equipment or workmanship to the full satisfaction of the Agency within the stipulated guarantee period without Cost to the Agency. In addition, the Contractor shall remedy at the Contractor's expense any damage to Agency-owned or controlled real or personal property, when that damage is the result of a) The Contractor's failure to conform to contract requirements; or b) Any defect of equipment, Material, workmanship, or design furnished by the Contractor or Subcontractor or supplier at any tier. 15) This warranty shall not limit the Agency's rights under any other clause of this contract with respect to latent defects, gross mistakes, or fraud.



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	16) The Contractor shall restore any Work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to Work repaired or replaced will run for two (2) years from the date of repair or replacement. 17) The Procurement Officer or the Agency's designated representative shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. 18) If the Contractor fails to remedy any failure, defect, or damage with regard to any item or part of the Work caused by the Contractor or its respective subcontractors or suppliers at any tier within a reasonable time after receipt of notice, the Agency shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense. 19) GUARANTEES ACCEPTANCE OF GOODS AND SERVICES. Goods and services delivered will be subject to a complete inspection by the Agency. Acceptance criteria shall include, but is not limited to, conformity to the specifications, workmanship, quality, and Materials. The Contractor shall be responsible for the transport of the Material to and from the delivery point of any items not in compliance with the requirements of the Contract. Product returned for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted. 20) LATENT DEFECTS. Materials and equipment incorporated into the Work may have, or as a result of the construction process, may develop hidden defects known as latent defects. Contractor shall guarantee that such latent defects, when discovered, shall be remedied at no extra Cost to the Agency, regardless of whether the defective Materials have been paid for, inspected, or previously accepted by the Agency. 21) SERVICES PERFORMANCE. In the event of the Contractor's failure to perform required Services or meet agreed upon Service levels or other Contractor service standards as required by this Contract, the Contractor shall perform an analysis of the cause of the service level problem and implement remediation steps as appropriate. The Design Professional and the Agency shall have the right to review the analysis and approve the remediation steps prior to or subsequent to their implementation. If Contractor fails to complete any deliverable, then Contractor shall: - Promptly perform a root-cause analysis to identify the cause of such failure; - Use commercially reasonable efforts to correct such failure and to begin meeting the requirements as promptly as practicable; - Provide the Agency with a report detailing the cause of, and procedure for correcting, such failure; and - If appropriate under the circumstances, take action to avoid such failure in the future.
7.3 Contractor Personnel	1) Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their Work, and Contractor shall provide individual evidence of certification to Agency's authorized representatives upon request. 2) The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
7.4 Intellectual Property	1) Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation. 2) SYSTEMS AND CONTROLS. In consideration for Agency having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place systems and controls appropriate to ensure that Agency funds under this Contract are not knowingly used for the acquisition,



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	operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights
7.5 Compliance with Laws	1) If applicable, Contractor warrants that the Materials and Services, and any disposal thereof bearing on performance of the Work, do and will continue to comply with all applicable federal, state, and local laws. 2) Some of the local codes with which the Work performed by the Contractor must be in compliance include, but are not limited to, the Arizonans with Disabilities Act (A.A.C. R10-3-401 through 412) and American National Standards Institute's Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped; State of Arizona Fire Code; regulations related to solar energy and life cycle Cost analysis (see A.R.S. § 34-452); and Water Conservation for State Facilities (see Executive Order 91-3).
7.6 100% Construction Documents	1) Construction Documents shall be consistent with the Project program, construction budget, and Project Schedule. 2) Prior to the first Construction Documents phase submittal, Contractor and its Subconsultants and/or Subcontractors shall review Agency's Bidding Documents for Project requirements and recommend any changes needed to make them applicable to the Project. 3) Contractor shall update the documents and provide additional drawings, details and specifications in sufficient detail as to be deemed complete and buildable. 4) Prior to submitting the 100% Construction Documents, Contractor and its Subconsultants and/or Subcontractors shall have thoroughly checked, coordinated, and revised all documents to bring them to 100% completed level. 5) The Contractor shall provide or assist with the preparation of the following: a) Certification Page b) Project Description c) Index to the Specifications d) Specifications and List of Drawings
7.7 Contracted Work, Errors and Omissions	1) Errors, inconsistencies, ambiguities or omissions discovered by the Contractor shall be reported as a written Request for Information to the Agency immediately prior to the execution of Work. 2) If the Contractor performs any Work activity knowing or should have known it involves an error, inconsistency or omission in the Contract without such written notice to the Agency, the Contractor shall assume full responsibility for such performance and shall bear the full Costs for correction. 3) REMEDIATION OF ERRORS. Contractor bears full responsibility for errors and omissions in its Work and any and all Work of the Contractor's Subconsultant's and/or Subcontractor's Work. Contractor shall include in its Work, without limit or additional Cost to the Agency, all Work necessitated, in whole or in part, by any and all errors and omissions of, or breach of, the Contract by, the Contractor, its Subconsultants and/or Subcontractors, or any entity working under the Contractor. At a minimum, the Contractor shall, at no Cost to the Agency, promptly remediate any errors, omissions, deficiencies, or contradictions in its Work to the satisfaction of the Agency. 4) ACCEPTANCE OR APPROVAL DOES NOT ALLEVIATE CONTRACTOR'S RESPONSIBILITY FOR ERRORS. The approval, review, or acceptance of the Contractor's Work by any Agency or other party does not, in any way, alleviate the Contractor from its responsibility to fully remediate the Work from any errors discovered subsequently or necessary clarification of any ambiguities. The obligations of the Contractor to correct defective or nonconforming Work shall not, in any way, limit the Contractor's other obligations under the Contract. 5) CONTRACTOR PERFORMING WORK WITH A CONSTRUCTION MANAGER AT RISK. When performing as a Construction Manager-at-Risk, Contractor has a shared responsibility with Design Professional for discovery and resolution of discrepancies, errors, and omissions in the Contract Documents when hired by the Agency to perform pre-construction services. In such case, Contractor's responsibility pertains to review, coordination, and recommendation of resolution strategies within budget constraints. 6) CONTRACTOR PERFORMING AS DESIGN-BUILD FIRM. When performing as a Design-Build firm, Contractor has sole responsibility for discrepancies, errors, and omissions in the Drawings and Specifications.



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7.8 Licenses and Permits	1) Contractor warrants that it will maintain all licenses required under paragraph 3.8 [Contractor Licenses] and all required permits are valid and in force. 2) The Contractor shall secure and pay for any building permit, Arizona Department of Environmental Quality emissions permit, and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids or proposals are received or negotiations concluded, unless otherwise stated in the Contract. Any required building or right of way permit applications shall be completed by Contractor and filed with authorities having jurisdiction within five (5) days of the Notice to Proceed.
7.9 Operational Continuity	Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.1 Assignments and Delegation that expressly recognizes the event.
7.10 Pandemic Contractual Performance	1) The Contractor shall have a plan that illustrates how the Contractor shall perform contractual requirements in the event of a pandemic. At a minimum, the plan shall include: a) Key succession and performance planning in the event of sudden significant decrease in Contractor's workforce; b) Alternative methods to ensure there are products in the supply chain c) A current organizational chart and contact list. 2) In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this Contract impossible or impracticable, the following shall apply: a) The Agency may temporarily void the Contract(s) in whole or specific sections if the Contractor cannot perform contractual requirements; b) The Agency shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code; and c) The Agency may, at its sole discretion, reinstate the voided contracts or sections of contracts when the pandemic is officially declared over and/or the Contractor can demonstrate the ability to perform. 3) The Agency, at any time, may request to see a copy of the written plan from the Contractor. The Contractor shall produce the written plan within seventy-two (72) hours of the request.
7.11 Lobbying	1) PROHIBITION. Contractor warrants that: a) it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and, upon award of the Contract, it will disclose all lobbying activities to Agency to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety. b) Contractor shall implement and maintain adequate controls to assure compliance with this paragraph. c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts. 2) EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for Agency's benefit or on Agency's behalf.
7.12 Survival of Warranties	All representations and warranties made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.
7.13 Waiver of the Statute of Repose	To the fullest extent permitted by law, Contractor waives Arizona's statute of repose as defined in A.R.S. § 12-552 (the "Statute of Repose"). The Contractor's express written warranties stated elsewhere in the Contract, and any and all claims, actions, liabilities, damages, losses, or expenses including attorney fees and court Costs, for bodily injury or personal injury (including death), will not be time-barred by the Statute of Repose. Court Costs shall include, but are not limited to, Costs associated with claim processing, primary loss investigation, judgment, expert witnesses, and any and all fees and Costs related to appellate proceedings.



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8.0 State's Contractual Remedies

8.1 Agency's Right to Carry Out the Work	1) If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Agency to commence and continue correction of such default or neglect with diligence and promptness, the Agency may after such ten-day period, without prejudice to other remedies the Agency may have, correct such deficiencies or cause such deficiencies to be corrected. Contractor shall pay any and all Costs incurred by the State for such corrections to the work. 2) In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the Cost of correcting such deficiencies, including compensation for the Designer's additional services and expenses made necessary by such default, neglect or failure. 3) Such action by the Agency and amounts charged to the Contractor are both subject to prior review and confirmation by the Designer. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Agency. 4) An Agency may require that Contractor provide a work plan to address the deficiencies within 48 hours of receiving the above-referenced notice from Agency.
8.2 Consequential Damages	Contractor and Agency waive claims against each other for consequential damages arising out of relating to the Contract. This mutual waiver includes, but is not limited to: 1) Damages incurred by the Agency for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and 2) Damages incurred by the Contractor for principal office expenses including but, not limited to, the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit arising directly from the Work, and for indirect expenses and general office overhead. 3) This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination. Nothing contained in this section shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contractor documents.
8.3 Nonconforming Tender	1) The Materials provided and Services performed must comply fully with the Contract, and providing Materials or performing Services or any portion thereof that do not comply fully constitutes a breach of Contract, in which event Agency will be entitled to exercise any remedy available to it under the Contract or laws. 2) Any Material deviation from the final bid may be deemed a breach of contract unless specifically authorized by the Procurement Officer through a contract Change Order. 3) The Agency will not accept a Material reduction and/or modification in the quality and/or quantity of the Work. If applicable, the Agency may deem an unauthorized ten percent (10%) change in the Work to be a Material breach of contract.
8.4 Non-exclusive Remedies	Agency's rights and remedies under the Contract are not exclusive.
8.5 Right to Assurance	1) If Agency in good faith has reason to believe that Contractor does not intend to, or is unable to, perform or continue performing under the Contract, Procurement Officer may demand that Contractor promptly provide written assurance of intent to perform. Failure by Contractor to provide the assurance within the time specified may be the basis for terminating the Contract or for Agency to exercise any other remedy available to it under the Contract or laws. 2) The Agency may demand any and all documents in its reasonable discretion to assure itself that the Contractor has the resources and ability to perform the Contract.
8.6 Right of Offset	1) Agency is entitled to offset against any sums due Contractor any expenses or Costs Agency incurs or damages it has assessed against it concerning Contractor's non-conforming performance or failure to carry out the Work, including any expenses, Costs, and damages to which it is entitled by the Contract or laws. 2) Further, the Agency is also entitled to the right of offset on this Contract for breach and defaults on other Contracts between the Agency and Contractor.
8.7 Stop Work Order	The Agency may at any time require Contractor to stop all or any part of the Work by written order (a "Stop Work Order"). Upon receipt of a Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further Costs during the period of stoppage that might be chargeable to Agency associated with the portions of the Work covered by the order. If Contractor incurs losses, it may make a claim under Article 10 solely for Work performed to date of the Stop Work Order, and not for future profits, or any consequential damages as



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	described above. Further, upon issuance of a Stop Work Order, Contractor shall take all steps necessary to ensure the safety of the Site.
9.0 Contract Termination	
9.1 Agency Failure to Perform	The Contractor is not liable or responsible for Agency delays or suspension of Work caused solely by Agency.
9.2 Gratuities	Agency may, by written notice, terminate the Contract, in whole or in part, if Agency determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of Agency for the purpose of influencing the outcome of the procurement or the administration of the Contract or any favorable treatment concerning the Contract or performance of the Contract. Agency, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the Gratuity offered by Contractor.
9.3 Notice to Cure	Upon receipt of any Notice to Cure, the Contractor receiving the Notice must prepare a report describing its program and measures to affect the Cure of the event of default and/or anticipatory breach of Contract within the time required by the Notice to Cure. The report must be delivered to the Agency Procurement Officer at least three (3) business days prior to the required Notice to Cure meeting with the Agency.
9.4 Rights to Work Project	Should the Contractor be terminated under this Contract, the Agency may continue the Project and receive copies of the Drawings, Specifications, or other documents within fourteen (14) calendar days of the termination notice. Copies will be in the format designated by the Agency. The Agency reserves the right to have these documents completed, corrected, revised or added to by another Contractor
9.5 Suspension or Debarment	Agency may, by written notice to Contractor, terminate the Contract immediately if Agency discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Agency has taken Contractor's submittal of the Offer and Acceptance Form and will take its performance under the Contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify Procurement Officer immediately.
9.6 Termination for Conflict of Interest	By A.R.S. § 38-511, Agency may terminate the Contract within three (3) years after the effective date without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of Agency is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Contractor receives Agency's written notice of the termination unless the notice specifies a later date.
9.7 Termination for Convenience	Agency may terminate the Contract for convenience and in its sole discretion, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the Contract. Upon receipt of Agency's written termination notice, Contractor shall stop work as directed in the notice, notify all Subcontractors of the termination and its effective date, place no further orders for Work or Materials, enter into any further Contracts for Materials or Work, terminate all Contracts regarding Work remaining to be done, take all reasonable and necessary actions to protect the Work and the Site, and minimize any further Costs that might be chargeable to Agency. Contractor shall take all necessary actions to protect and preserve the work. In the event of termination under this paragraph, all Design Requirements, plans, Specifications, Drawings, Construction Documents, data, and reports prepared by Contractor under the Contract will become Agency's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished Materials on hand, Work in progress, Work completed, and Work accepted before the effective date of the termination. Should the Agency terminate the Contract under this



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	paragraph, the Agency will not be liable for Contractor lost profits or any consequential damages.
9.8 Termination for Default	1) In addition to the rights reserved to it under the Contract, Agency may terminate the Contract in whole or in part due to Contractor's failure to: a) comply with any term or condition of the Contract; b) obtain and maintain all required insurance policies, bonds, licenses, and permits; or c) make satisfactory progress in carrying out the Work. Procurement Officer shall give written notice of the termination and the reasons for it. 2) Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the Contract and all necessary and attributable unfinished Materials on hand, Work in progress, Work completed, and Work accepted will become Agency's property, and Contractor shall deliver all of it immediately on demand. Agency may, following termination of the Contract under this paragraph, procure on terms and in the manner determined to be appropriate Materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to Agency for any excess Cost Agency incurs in procuring such substitutes. 3) In the event the Agency terminates for default, the Agency shall be entitled to recover from the Contractor any and all damages, all reasonable attorney fees and court Costs (including, but not limited to, primary loss investigation, judgment Costs, expert witness and/or consultant fees and any and all expenses, fees, and Costs from appellate proceedings) incurred by the Agency as a result of the default. 4) If a termination for default is later determined to have been improper, such termination shall be automatically converted to a termination for convenience, and Construction Contractor's remedies and compensation shall be limited to those for a termination for convenience under the Contract.
9.9 Work Performance Continuation Required	Contractor shall carry on the Work and adhere to the Work Progress Schedule during all disputes, disagreements, or alternative resolution processes with the Agency. Contractor shall not delay or postpone any Work except as Agency and Contractor may agree in writing. Contractor shall continue to perform in accordance with the requirements of the Contract up to the effective date of any Stop Work Notice issued or Termination, as directed by Agency in the notice.
10.0 Contract Claims	
10.1 Claim Resolution	Notwithstanding any law to the contrary, all Contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and the rules adopted thereunder.
10.2 Mandatory Arbitration	In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements. The parties agree that any and all mandatory arbitration shall be through the American Arbitration Association ("AAA"), with the arbitrator to be selected pursuant to AAA rules and the arbitration to be conducted according to the applicable AAA rules, and with the Costs of arbitration (including but not limited to the arbitrator's fees, attorneys' fees, and Costs) to be allocated between the parties by the arbitrator. Costs do not include attorney fees.
11.0 Contractor Responsibilities	
11.1 Acceptance of Work	1) Agency has the right to make acceptance of the Work subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. Agency may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. 2) Contractor shall remove and replace any rejected work; and remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. Agency will not owe Contractor any payment for rejected Work, and Agency may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned



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	to Contractor in those instances where Agency has agreed to permit repair instead of demanding replacement.
11.2 Additional Work	1) AUTHORIZATION FOR ADDITIONAL WORK REQUIRED. Contractor shall only provide Additional Work when authorized in a written Order signed by the responsible Agency Procurement Officer. The Agency will not provide compensation for unauthorized Work. 2) PROMPT NOTIFICATION. Contractor shall notify the Agency with reasonable promptness when the need for additional services is identified and explain the facts and circumstances giving rise to the need. If the Agency determines that all or parts of those services are not required, the Agency shall give prompt written notice to the Contractor, and the Agency shall have no further obligation to compensate the Contractor for those services. 3) PROMPT AND ACCURATE SUBMITTALS. To avoid delay in the Design Schedule, Contractor shall submit any Requests for Information ("RFI's) or any other necessary documentation completely, accurately, and in a timely fashion, in accordance with the Contract.
11.3 Agency Reviews and Approvals During Design	Each design phase is subject to review and approval by the Agency. Other Agency personnel, external consultants, or public agencies may also review the Contractor's submittals at the Agency's discretion or as required by applicable regulations. The Agency will review the submitted drawings at all stages at times mutually agreeable with the Contractor and provide written comments.
11.4 Allowances	1) The Contractor shall include in the Contract Cost at time of offer submission any and all Allowances stated in the Contract as separate line items. Items covered by Allowances shall be supplied for such amounts and by such persons or entities as the Construction Documents may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection. Agency shall approve all use of Allowances through the use of Authority to Use Allowance Form, Exhibit S. 2) Allowances shall: a) Cover the Cost to the Contractor of Materials and equipment delivered to the Site and all required taxes, less applicable trade discounts; b) Contractor's Costs for unloading and handling at the Site, labor, installation Costs, overhead, profit and other expenses contemplated for stated Allowance amounts shall be included in the Contract Cost and not in the Allowances; c) Contractor shall take all reasonable steps to ensure the scope and budget of Allowances are correct. When Costs are more than or less than Allowances, the Contract Cost shall be adjusted accordingly by a Change Order. Contractor shall notify the Agency immediately if the scope selected for the Allowance causes Costs to be more or less than Allowance. d) Amount of Allowance must reflect reasonable Cost of providing the items, whether or not the item is actually provided.
11.5 As-Built Drawings	Contractor will review and update the As-Built Drawings on a weekly basis reflecting the changes in Specifications and working Drawings during the Construction of the Work and such updated As-built Drawing shall be made available at the construction site for review by agency. Contractor will submit the fully revised set of As-Built Drawings to the Agency upon Final Completion of the Work for the Project.
11.6 Automatic Temperature Control Design	Where applicable, the Contractor shall specify open protocol automatic Energy Management System (EMS)/HVAC controls systems that communicate with and are interoperable with the Agency system. The Agency's Designated Representative shall arrange an initial meeting to discuss the integration and specification of the EMS/HVAC Control System. The Contractor shall thereafter incorporate these requirements into Project design and Construction Documents.
11.7 Background Check	1) Each of Contractor personnel who is performing Work with information technology, correctional facilities, proprietary and sensitive data or confidential or access-restricted or in an Agency defined secured area, or as otherwise requested by Agency, must undergo the security clearance and background check procedure, which may include fingerprinting. 2) Contractor shall obtain and pay for the security clearance and background check and shall incorporate Cost in the Contractor offer submitted to perform the Work.



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	3) Contractor personnel who will have administrator privileges on a State network must additionally provide identify and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security.
11.8 Basic Work, Contractor Services	1) Contractor's Basic Work, as detailed in the Exhibits and Contract, shall include but is not limited to, any and all structural, mechanical, civil and electrical engineering Services. 2) If the initial scope of the Project is changed materially by the Agency, the Contractors compensation will be equitably adjusted through negotiation upon execution of a contract amendment.
11.9 Bonds, Payment and Performance	1) Contractor shall furnish as required under Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, payment and performance bonds executed solely by a surety company holding a certificate of authority to transact surety business in this state issued by the Department of Insurance under A.R.S. Title 20, Chapter 2, Article 1 and in a format prescribed by A.R.S. §41-2574, binding on the parties to the contract if the value of the construction award for the Contract exceeds the amount established by section A.R.S. §41-2535, or as otherwise requested by Agency. See Exhibit N and O. 2) If a surety upon a bond loses its authority to do business in Arizona, is insolvent, or otherwise cannot meet its obligations under the bond, Contractor shall, within thirty (30) days of such event, furnish a replacement bond in accordance with law at no added Cost to Agency.
11.10 Clean Up of Site	1) The Contractor shall at all times keep the premises, Site of Construction, surrounding area, and any storage areas neat and clean, and free from accumulation of waste Materials or rubbish caused by operation of Work under the Contract. 2) At completion of the Work the Contractor shall remove from Project waste Materials, rubbish, the Contractor's tools, construction equipment, machinery, surplus Material, and any excess rocks and dirt from the Work, to restore affected areas of Site to a neat and clean condition satisfactory to the Agency Designated Representative. 3) If the Contractor fails to clean up, the Agency may do so and the Cost thereof shall be charged to the Contractor. 4) Any landscaped seeded or sodded area requiring repair as a result of construction damage shall be leveled, raked, and re-seeded or re-sodded with like Material at Contractor's expense.
11.11 Compliance with Codes	Contractor shall bear full responsibility for ensuring that the Work performed under the Contract complies with all applicable laws, codes and regulations. In the case of conflicts between codes, the more stringent conditions shall apply. The Arizona Department of Administration Statutory Review is the authority having jurisdiction and is the enforcement agency for code requirements.
11.12 Contractor Control of Site	1) Construction Contractor shall have access to the Site after the Agency issues the Notice to Proceed. During any time at which the Construction Contractor has the primary use of, or control over, the location at which the Work is, or will be, performed, the Construction Contractor shall also bear all the responsibilities for that location as if it owned the Site. 2) The Construction Contractor shall confine operations at the Site to areas permitted by law, ordinances, permits, and the Contract and shall not unreasonably encumber the Site with Materials or equipment. Construction Contractor storage of any Materials at the Site shall be approved in advance by the Agency. 3) The Construction Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the Work Site, which are not to be removed and which do not unreasonably interfere with the Work required under this contract. The Construction Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during Contract performance, or by the careless operation of equipment, or by workmen, the Construction Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Agency Designated Representative. 4) The Construction Contractor shall protect from damage all existing improvements and utilities at or near the Work Site, and on adjacent property of a third party. The Construction Contractor is responsible for locating any and all utilities including any and all underground power, electrical, plumbing, gas, or water lines and shall bear the risk in the event of any damage to the same as a result of construction activity on the Project. 5) The Construction Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the



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	requirements of this Contract or failure to exercise reasonable care in performing the Work. If the Construction Contractor fails or refuses to repair the damage promptly, the Procurement Officer may have the Work performed and charge the Cost to the Construction Contractor. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Construction Contractor only with the approval of the Agency Designated Representative. The temporary buildings and utilities shall remain the property of the Construction Contractor and shall be removed by the Construction Contractor at its expense upon completion of the Work. 6) The Construction Contractor shall use only established roadways, or use temporary roadways constructed by the Construction Contractor when and as authorized by the Procurement Officer. When Materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Construction Contractor shall protect them from damage. The Construction Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads. 7) DUST CONTROL. Construction Contractor shall provide dust control in accordance with rules set forth by the authorities having jurisdiction and maintain suitable equipment on hand or at the Site for dust control on the Project. 8) Construction Contractor is to ensure that the construction Site is safe and has taken all appropriate measures to ensure the safety of all workmen and persons who are physically present at the Site. 9) Construction Contractor shall be responsible at its sole Cost for all measures necessary to protect any property and improvements adjacent to the project 10) Construction Contractor shall promptly notify in writing Agency of all accidents arising out of or in connection with the Work which causes death, personal injury, and/or property damage providing full details and statements and a list of witnesses.
11.13 Cooperation and Coordination	1) Agency and Contractor will cooperate and participate fully in coordinating at all levels and among all the parties involved in this Project, and at their own expense. Cooperation shall mean both formal and informal interaction between and among all the parties involved in the Project, including but not limited to, Agency's Representatives, Contractor's Subconsultants and/or Subcontractors, Contractors, Subcontractors and outside entities as designated by Agency to promote the desired goal of a successful, non-adversarial completion of the Project on time and within budget. The requirement for Cooperation shall not be construed as a change in the terms or conditions of the Contract for the Project. 2) The Agency and Contractor shall endeavor to communicate through the Design Professional. Communications by and with the Contractor's Subconsultants and/or Subcontractors shall be through the Contractor. Communications by and with Subcontractors and Material suppliers shall be through the Contractor. Communications by and with separate Contractors shall be through the Design Professional.
11.14 Schedule for Construction	1) SCHEDULE. The Schedule for construction and any and all updates thereto (Exhibit E) shall include time for any and all necessary review and approvals by Agency or outside entities, as well as sufficient time for other Consultants to complete their portion of the Work. The Schedule shall be in a format and provide sufficient detailed information that is acceptable to the Agency. Contractor shall provide the Agency and Design Professional with an approved baseline Schedule, within a time frame determined by the Agency, to include at a minimum initiation of construction, mobilization, procurement, installation, testing, inspection, delivery of Close-out Documents and Substantial Completion of the Work of the Contract and any other information required in the <u>Special Terms and Conditions</u>. The Construction Schedule should also include time for any and all necessary review and approvals by Agency or outside entities, as well as sufficient time for other Consultants to complete their portion of the Work. 2) ADDITIONAL TIME. Contractor shall bear the primary responsibility for determining whether additional time is required for the review of any orders or amendments to the Contract for Construction; allowing time for Agency review and approval of any such orders or amendments; and is responsible for ensuring that such time is reflected in a modified Schedule in a Change Order. 3) CONTRACTOR REVIEW. Contractor shall bear the primary responsibility for ensuring that it was allotted sufficient time in the Schedule for construction for any and all necessary reviews and approvals. Contractor shall timely review all requests for information, changes, and submittals in a timely fashion as to not delay the project.



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11.15 Conformity of Work to Construction Documents Review	1) The Contractor shall review inspection reports, laboratory reports, and test data to determine conformity of such data with the Design Requirements expressed, implied, or depicted in the Contract Documents; approved Shop Drawings, Product Data, and Samples; and Clarification Drawings. 2) The Contractor shall also recommend to the Agency, actions to be taken by the Agency as determined from Contractor Project Site visits, inspection reports, laboratory reports, and test data or from Contractor proposals, or other relevant documents. 3) Agency shall have the right, in the event of a dispute over conformity, to conduct an independent evaluation.
11.16 Construction Cost Control	Throughout the Project, the Contractor shall keep the Project's estimated construction Cost within the Construction Budget. Contractor is responsible to periodically submit to Agency, at review times mutually agreeable to Agency and Contractor, a current Estimated Project Construction Cost to verify that this is accomplished. If necessary, the Contractor shall schedule times with Agency to review the Construction Budget.
11.17 Construction Safety	1) SAFETY. Contractor, Subcontractors, employees and all Site visitors, at all times on the job Site, shall furnish and wear sufficient protective gear, including but not limited to, hardhats, safety shoes and safety goggles. Contractor shall also provide temporary protection measures, drinking water and temporary sanitation facilities for use by construction personnel. Contractor shall provide up-to-date Material safety data sheets (MSDS) as required for Materials at the Site. Contractor shall have a detailed site-specific safety plan to address State and Federal safety laws. 2) INJURIES. In the event of an incident or accident involving outside medical care for an individual on or near the Work, Contractor shall notify Agency Designated Representative and other parties as may be directed promptly, but no later than twenty-four (24) hours after Contractor learns that an event required medical care, supply Agency Designated Representative and Contractor with an incident report no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident (one (1) fatality or three (3) or more workers hospitalized), barricade and leave intact the scene of the incident until all investigations are complete. A full set of incident investigation documents, including facts, witness names and statements, finding of cause, and remedial plans shall be provided to Agency Designated Representative within one (1) week after occurrence, unless otherwise directed by Agency. 3) ENVIRONMENTAL SAFETY Contractor shall immediately stop Work activities impacted by encountering any previously unknown potentially hazardous Material, or other Materials potentially contaminated by hazardous Material, and secure the affected area, and notify Agency Designated Representative immediately. Agency Designated Representative will promptly engage qualified experts to investigate and issue a written report to Contractor identifying the Material(s) found. The Agency shall remediate and render harmless the hazard caused by Agency or if an unknown and could not have been reasonably foreseen by Contractor. 4) TRENCHING AND EXCAVATING PLAN. Contractor is required to submit a trenching and excavation plan to Agency Designated Representative prior to commencing operations unless an engineered plan is part of the Contract Documents. 5) ASBESTOS CONTAINING MATERIAL. The Contractor shall not knowingly use, specify, request or approve for use any asbestos containing Materials or lead-based paint in the Work. When a specific product is specified, the Contractor shall endeavor to verify that the product does not include asbestos containing Material.
11.18 Construction Meetings	Contractor shall attend regular construction meetings with the Agency at the Project Site with duration and frequency determined by the Agency for the Project.
11.19 Correction of Defects and Non-Compliant Work	1) Construction Contractor shall use due care in inspections and observations to determine non-conformance. 2) Design Professional shall keep agency informed of progress and quality of Work and use due care to guard against defects and deficiencies in Construction Contractor's Work. Should the Design Professional and/or the Agency Designated Representative identify Work as noncompliant with the Contract Documents, upon notice Construction Contractor shall immediately correct such Work at no additional Cost to the Agency. The approval of Work by either Design Professional or Agency Designated Representative does not relieve Construction Contractor from the obligation to comply with all requirements of the Contract Documents.



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- 3) Construction Contractor shall take any and all steps to meet the requirements of the Project Specifications. If Construction Contractor fails to do so, the Agency will require correction and full compliance. After corrective action is taken, the Agency will retest to determine compliance with the Specifications. Construction Contractor shall be responsible for the Cost of the additional testing and inspections, and such Cost shall be deducted from progress payment to Construction Contractor.
- 4) Construction Contractor shall, at no additional Contract Cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials or Work.
- 5) Construction Contractor shall bear the expense of making good all Work of Agency other contractors destroyed or damaged by removal or replacement of defective Construction Contractor Work. Agency shall equally enforce this clause against any Agency other contractors.
- 6) If Construction Contractor fails to take prompt action to comply with the Contract Documents in a timely manner, as determined by the Agency, Agency will be entitled to exercise its remedies under paragraph 8.6 [Right of Offset] of the Uniform Terms and Conditions, or any other remedies set forth in the Contract.
- 7) Whether Agency will permit Construction Contractor to repair in place or demands that Construction Contractor remove and replace is at Agency's discretion in each instance, provided that, Agency shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on Agency's part.
- 8) AGENCY ACCEPTANCE OF DEFECTIVE WORK. At the absolute discretion of the Agency, the Agency may decide to accept defective Work, instead of requiring correction or removal and replacement of defective Work. Construction Contractor shall pay all claims, Costs, losses and damages attributable to Agency's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents and compensating the Agency for the diminished value of the project resulting from the defective Work. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Construction Contractor to Agency after a calculation by Agency of the diminution in value of the project resulting from defective Work.
- 9) The Construction Contractor's obligations to perform Warranty Work will survive the acceptance of any Work and any termination of the Contract.
- 10) CONSTRUCTION CONTRACTOR NON-COMPLIANT WORK. Should the Design Professional and/or the Agency Designated Representative identify Work as noncompliant with the Contract Documents, Design Professional and/or Agency Designated Representative shall communicate the finding to Construction Contractor, and Construction Contractor shall correct such Work at no additional Cost to the Agency. The approval of Work by either Design Professional or Agency Designated Representative does not relieve Construction Contractor from the obligation to comply with all requirements of the Contract Documents.
- 11) AGENCY MAY CORRECT NON-COMPLIANT WORK. Agency shall issue a written notice to Construction Contractor to correct and remedy any deficiency including but not limited to:
 - a) Remove and replace rejected Work, or
 - b) Construction Contractor failure to perform Work in accordance with the Contract Documents; or
 - c) Construction Contractor fails to comply with other provisions of the Contract Documents.
- 12) If, in the opinion of the Agency, significant progress to correct the deficiency by the Construction Contractor has not been made, within seven (7) days, the Agency may exercise any actions necessary to remedy the deficiency including but not limited to:
 - a) Exclude Construction Contractor from all or part of the Site;



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	b) Take possession of all or part of the Work, and c) Suspend Construction Contractor's services related thereto, and d) Incorporate in the Work all Materials and equipment stored for the Project at the Site or for which Agency has paid Construction Contractor but which are stored elsewhere. e) Hire a replacement contractor or take other measures that are reasonably necessary to correct the noncompliant Work. Any and all Costs incurred shall be paid by the Construction Contractor or deducted from any amounts due or that may be due Construction Contractor under this or any other contract with the State of Arizona. Costs, shall include, but not be limited to, repair and replacement Costs, labor and material Costs, removal Costs, design Costs, administrative expenses, and any other Costs and expenses caused by Construction Contractor's non-compliance. 13) Construction Contractor shall allow the Agency, its agents and employees, Agency's other Construction Contractors, Construction Contractors and Subconsultants and/or Subcontractors access to the Site to enable Agency to exercise the rights and remedies under this paragraph. All claims, Costs, losses and damages incurred or sustained by the Agency in exercising such rights and remedies will be charged against Construction Contractor and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work. Such claims, Costs, losses and damages will include but not be limited to all Costs of repair or replacement of Work of others destroyed or damaged by correction, removal or replacement of Construction Contractor's defective Work. Construction Contractor shall not be allowed an extension of the Contract times (or Milestones), or claims of damage because of any delay in the performance of the Work attributable to the exercise by Agency of Agency's rights and remedies hereunder. 14) CONSTRUCTION CONTRACTOR NON-COMPLIANT WORK. If the Construction Contractor Materially fails to furnish services in compliance with the approved Project Schedule or any subsequently approved amendments to the Schedule or the Construction Contractor's services, or deliverables are unusable for their intended purpose and these failures are a Material breach of this Contract, then Agency, in its reasonable discretion, and after failure of Construction Contractor to respond to the Notice to Cure, may Contract with another Construction Contractor to complete the services or Work product, and Construction Contractor shall pay the Agency for the difference between the balance under Construction Contractor's Contract with Agency and the amount charged by the replacing Construction Contractor to complete Construction Contractor's Scope of Work. a) Agency will provide Construction Contractor with the itemized Costs as they are being incurred. b) Prior to contracting with another Construction Contractor, the Agency shall provide Consultant with a Notice to Cure, as described in these Uniform Terms and General Conditions. c) Should the Construction Contractor failure to Cure the Material breaches of this Contract, as identified in the Notice to Cure, the Agency may pursue any of the available remedies for breach of Contract available in Section 8 above. d) It is understood that if the Construction Contractor materially breaches this Contract and the Agency Terminates for Default under this Contract, Construction Contractor shall not be entitled to any sums due or that may become due under this Contract.
11.20 Corrective Action Required	1) Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any Material portion of the Work, including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable. 2) Contractor shall provide to Agency a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or



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	the date when the failure first became apparent, if it was not apparent immediately after occurrence). 3) Agency may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections Agency instructs and adopt Agency's recommendations so far as is commercially practicable, provided that, Agency may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment. 4) Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances
11.21 Cutting and Patching	1) The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. 2) The Contractor shall not damage or endanger a portion of the Work or fully or partially completed Construction of the Agency or separate Contractors by cutting, patching, or otherwise altering such Construction, or by excavation. The Contractor shall not cut or otherwise alter such Construction by the Agency or a separate Contractor except with written consent of the Agency and of such separate Contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Agency or a separate Contractor the Contractor's consent to cutting or otherwise altering the Work.
11.22 Design Development	Contractor shall provide conceptual civil, landscape, architectural, structural, plumbing, mechanical, electrical drawings as required for the Design Requirements of the Work.
11.23 Contractor Agreements, Communication	The Agency will ensure that Contractors receive the necessary communication to perform the required Work, and shall promptly notify Contractors of any and all communications that the Agency determines may materially affect the Contractor's Work.
11.24 Design Schematics	Contractor shall prepare and submit to Agency diagrammatic drawings which delineate the design criteria (e.g., exit paths, travel distances, required exits, rated walls, rated corridors, building occupancy, construction type, and fire zones). This graphic documentation of the design criteria shall be updated with each subsequent submittal.
11.25 Energy Efficiency	Upon request by the Agency, Contractor will analyze the Work or related components for energy efficiency gains including, but not limited to Life Cycle Costing, pursuant to A.R.S. 34-452.
11.26 Examination of Site	1) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Work or its Cost. Contractor and its key personnel shall visit the Project Site to become familiar with existing Site conditions for the Agency Project and visually survey for coordination of the Work, which may include but not limited to, the Site location and size, Site and adjacent perimeter, utility capacities, conditions bearing upon transportation, disposal, handling, and storage of Materials, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during Work performance, and connection options of external utilities, all relevant areas of any existing buildings to be altered, ceiling, interior, exterior, and concealed spaces, prior to submitting an Offer for the Work. 2) The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the solicitation prior to bid submittal and Contract before commencing Work. 3) The Contractor acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface Materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Site, including all exploratory Work done by the Agency, as well as from the drawings and specifications made a part of this Contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and Cost of successfully performing the Work, or for proceeding to successfully perform the Work without additional expense to the Agency. 4) The Agency assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Agency. Nor does the Agency assume responsibility for any understanding reached or representation made concerning conditions which can affect the Work by any of its officers or agents



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	before the execution of this contract, unless that understanding or representation is expressly stated in this Contract.
11.27 Forced Substitutions	Forced substitutions will not be permitted; Contractor shall obtain Agency's prior written consent before making any substitution for any Material or Service covered by the Contract.
11.28 Hazardous Materials, Substances, or Waste	1) The rights and liabilities of the parties when a hazardous substance is encountered are specified by A.R.S. § 32.-1129.03. 2) Contractor shall timely provide Agency with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for Agency to comply with regulations when it or its other Contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but Agency (and this Contract) use only the more up-to-date "SDS" reference. a) Contractor shall ensure that all its relevant personnel, to the extent they are Contractor's responsibility under the Contract, understand the nature of and hazards associated with, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous Material, with "hazardous Material" being any Material or substance that is: b) Identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or c) Subject to statutory or regulatory requirement governing special handling, disposal or cleanup. d) Contractor shall provide and maintain SDS on-Site as required for the Work. 3) CONTRACTOR HAZARDOUS WASTE RELEASE. Contractor shall refrain from release of a Hazardous Substance on Agency property during the Work. This includes a Release of a Hazardous Substance pre- existing on Agency property under the following circumstances: a) If Agency has made Contractor aware of the existence of the Hazardous Substance pre-existing on Agency's property and if Agency has provided an area free from the Hazardous Substance sufficient for Contractor to perform the Work; or b) If Agency has not made Contractor aware of the pre-existing Hazardous Substance on Agency's property, but Contractor or any Subcontractor failed to act reasonably when it encountered the Hazardous Substance. 4) Contractor shall report immediately to Agency Designated Representative any spills of oil, gas, chemicals or any hazardous Materials. Contractor shall expedite all approved mitigation measures.
11.29 Inclement Weather Day	1) RAIN DELAY. Construction Contractor bears the risk of rainfall activity unless delayed on a critical path for more than 7 days. 2) Construction Contractor shall immediately notify the Agency Designated Representative on the day, and any subsequent days throughout the Project, the Construction Contractor is unable to perform Work at the Site on the critical path for more than seven (7) continuous normal Work hours due to inclement weather or rain. The Agency Designated Representative shall confirm the weather conditions and provide a written confirmation to the Construction Contractor. 3) Construction Contractor shall submit to the Design Professional and Agency Designated Representative for review a Change Order Request with the number of days the Construction Contractor is requesting a no Cost time extension for Substantial Completion for inclement weather or rain in excess of normal rain fall, along with documentation of the weather days that occurred, and the impact on the critical path Work no later than the end of the month in which the inclement weather day or days occurred. Failure of Construction Contractor to submit a Change Order Request in accordance with this paragraph requirement shall constitute a waiver of additional time for Substantial Completion. Agency Representative shall be the final decision maker on the number of inclement weather days in any Construction Contractor properly submitted Change Order Request for extension of time for Substantial Completion in the event of disagreement



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	between the Construction Contractor and Agency Designated Representative. Average days of rain per month will be determined by meteorological data obtained from the closest National Weather Service Station to the Project Site.
11.30 Inspection and Material Testing	1) All Materials and equipment used in the construction of the Project shall be subject to inspection and testing in accordance with generally accepted standards, as required and defined in the Contract Documents. 2) CONTRACTOR RESPONSIBILITIES. Contractor shall provide, at Contractor's expense, the testing and inspection services required by the Contract Documents. Contractor shall provide such equipment and facilities as are required for conducting field tests and for collecting and forwarding samples of sufficient size for test purposes. No Materials or equipment represented by samples are to be used until tests, if required, have been made and the Materials or equipment are found to be acceptable. 3) UNFIT FOR USE AFTER APPROVAL. Any Material which becomes unfit for use after approval thereof shall not be incorporated into the Work. Approvals or failures to properly inspect or test shall not relieve Contractor from its obligation to perform the WORK in accordance with the requirements of the Contract Documents and to also inspect Contractor's own Work. Failure to discover, inspect, or timely report shall not excuse Contractor from full performance of the Work. 4) TIMELY NOTICE. Contractor shall notify Agency Designated Representative and/or Design Professional in writing if any Work will need to be inspected, tested, or approved by someone other than Contractor. Contractor shall coordinate with the Agency and Design Professional well in advance of such testing, inspection, or approval process. Should an inspection, test, or approval be required under this paragraph, Contractor shall bear the sole responsibility for updating the Work Progress Schedule. 5) NON-CANCELLATION OF SCHEDULED INSPECTIONS. Contractor shall bear all Costs, for any and all instances, in which Contractor fails to cancel no less than twenty-four (24) hours in advance any Contractor scheduled inspection or testing date and time in which the Work will not be or is not ready for the scheduled inspection or testing. 6) RETESTING FOR WORK. Contractor shall be responsible for and shall pay all Costs in connection with non-cancellation of scheduled inspections, retesting for Work or Materials found defective or unsatisfactory, including tests covered in this section below entitled "Agency Responsibilities". All Costs for the purpose of paragraph 11.32.4-5 include the standby and travel time for the Agency testing representative, the Design Professional and Agency Designated Representative when due to Contractor's inability to be prepared for the untimely or non-cancelled testing time and date scheduled and retesting due to Contractor defective or unsatisfactory Work. Agency may withhold these Cost expenses from any payment due to Contractor. 7) COVERED WORK. Any Work covered by Contractor contrary to the Contract Documents or written instructions of Design Professional or Agency Designated Representative, shall be uncovered at the request of the Design Professional or the Agency Designated Representative for observation and replaced at Contractor's expense. Contractor shall furnish all necessary labor, Materials, tools, and equipment to uncover, expose, or otherwise make available for observation, testing, or inspection any covered Work portion the Agency Designated Representative or Design Professional may require for inspection or testing by others. If Work is found defective, Contractor shall bear all expenses of such uncovering, exposure, observation, inspection and testing, and of satisfactory reconstruction. If Work is not found defective, Contractor shall be allowed an increase in the Contract Cost, or an extension of time, or both, through an issued Change Order directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction. 8) OBSERVABLE DEFECTS. Observable defects are those that are discoverable by routine testing and inspection procedures or by implementing special tests as required or implied by the Specifications. Defects discovered shall be repaired or removed by Contractor as these are identified.



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	9) SUBMITTALS. Written reports of tests and engineering data furnished by Contractor for Design Professional's review of Materials and equipment proposed to be used in the WORK shall be submitted as specified for Shop Drawings. 10) AGENCY RESPONSIBILITIES. Agency will provide any inspection and testing services not provided by the Contractor as required by the Contract Documents. Tests will be made by an accredited testing laboratory selected by the Agency. Except as otherwise provided in the <u>Special Terms and Conditions</u>, or the Specifications, sampling and testing of all materials and the laboratory methods and testing equipment will be in accordance with the latest standards and methods of the applicable national standards.
11.31 Inspection of Work by Contractor	1) Contractor is responsible for inspection activity and shall use due care to observe the Work as Work progresses and determine whether or not Contractor's Work or any part of Work is defective or fails to conform to standards of the trade and generally accepted standards for such Work defined in the Contract Documents. Work will be compared to the Drawings and Specifications and any and all supplemental Drawings and Specifications for the Project. 2) Agency shall provide technical direction to, and interpretation of, the Contract Documents for inspectors and advise inspectors of decisions rendered. 3) Any inspectors, acting under the direction of Agency's Designated Representative, or Contractor will: - Be responsible for milestone inspections (spot checks) to assess compliance with the requirements of the Contract Documents. - Prepare a written report following each milestone inspection. The inspector shall notify the Agency's Designated Representative when Work that does not comply with the Contract Document requirements is observed in the field. Observed instances of noncompliance shall be noted in the inspector's report. - Comment in subsequent inspector's reports on whether or not instances of noncompliance have been corrected. - Participate in Punch List inspections for partial occupancy, Substantial Completion and final completion. - Assist Agency Designated Representative in reviewing test and inspection results from testing laboratories. - If Agency contracts for specialty inspection services, the inspector shall report the results of these inspections to Agency's Designated Representative. - Not authorize deviations from the Contract Documents. - Not advise or issue directions to Contractor regarding any aspect of construction means, methods, techniques, sequences, or procedures or regarding safety programs in connection with the Project. 4) The failure by Contractor's or Agencies representatives and inspectors to discover or determine any defects or deviations from plans, specifications or Contract requirements shall not release contractor from full performance and compliance with all contract requirements.
11.32 Issue Addenda	1) Interpretation, clarification, and modification of the Contract Documents shall be issued only in the form of an Addendum to the Contract Documents. Contractor shall furnish the information required to the Agency Procurement Officer for issuance of Addenda. 2) Contractor is responsible for receiving, reviewing, approving, coordinating, and incorporating addenda items received from the Subconsultant(s) and/or Subcontractor(s) into a single addendum document prior to submitting this document to the Agency Procurement Officer. 3) Addenda shall be submitted to the Agency Procurement Officer in the same format as the Construction Documents. 4) Contractor shall provide to the Agency at the end of the Bidding phase the following documents with changes identified as follows: - In the Specifications, all additions shall be shown in bold underline and all deletions shown in strikethrough. - In the Drawings, changes shall be "clouded." - One set of individual Construction Drawings and sections of the Specifications which were altered by Addenda.



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	d) One complete set of Construction Drawings and Specifications that fully integrate all addenda items.
11.33 Key Personnel	1) AUTHORITY. The Contractor shall designate which of its employees have the authority to enter into agreements with the Agency on behalf of the Contractor, and which of its employees, its Subconsultants and/or Subcontractors, will bear the primary responsibility for the completion of the Work. 2) REMOVAL OF PERSONNEL. Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, Agency may at its discretion and, without the obligation to demonstrate cause, instruct Contractor to remove any of its personnel from State's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace them with other personnel having equivalent qualifications, experience, and capabilities. The Agency Designated Representative may require, in writing, that the Contractor remove from the Work any employee the Agency Designated Representative deems incompetent, careless, or otherwise objectionable. 3) PERSONNEL SUBSTITUTIONS. Contractor shall not be permitted to substitute Contractor Key Personnel, Subconsultants and/or Subcontractors after offer submittal, without the prior written approval of the Agency Designated Representative. Requests shall be made in writing detailing the reasons for the requested change and shall not commence without written approval from Agency. The Agency has the right to the same kind and quality of the employee initially offered. 4) ROLE APPROVALS. Contractor Key Personnel designated in <u>Offer Documents</u> shall be deemed approved for the roles and responsibilities stated unless expressly stated otherwise by the Agency prior to execution of the Contract.
11.34 Labor and Materials	1) Contractor shall perform Work during regular business hours unless such non-normal Work hours are required by the Contract Documents and not permit overtime work. Agency Designated Representative may approve alternate Work hours that neither add additional Cost nor time to the Contract Cost or Project Substantial Completion. 2) All equipment, Materials, and articles incorporated into the Work covered by this Contract shall be new and of the most suitable grade for the purpose intended, shall be stored, applied, installed, connected, erected, used, cleaned and conditioned by Contractor in accordance with the instructions of the applicable manufacturer, fabricator, supplier or distributor, unless otherwise specifically provided in the Contract Documents. 3) References in the Specifications to equipment, Materials, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality, function, and type, and shall not be construed as limiting competition. 4) All Work under this Contract shall be performed in a skillful and workmanlike manner. Contractor shall provide competent, suitably qualified personnel to survey, lay-out, and construct the Work as required by the Contract Documents and maintain good discipline and order at the Site at all times. 5) Contractor is solely responsible for construction means, methods, techniques, sequences or procedures, for safety precautions and programs, protection of installed Work, for coordinating all portions of the Work under the Contract and quality controls in connection with the Work. and will utilize the above so as not to destroy materials for reuse or to remain the property of the State 6) The Contractor shall be responsible for all Materials delivered and Work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been partially accepted under the Contract. Contractor shall remain responsible for the care and protection of Materials and Work in the areas where Punch List items are completed until Final Completion. 7) The Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, drinking water, water, heat, ventilation, utilities, barricades, lighting, construction and warning signs, temporary fire protection, transportation, temporary facilities, fencing, appliances, fuel, power, light, heat, telephone, sanitary facilities, and services necessary for the construction, performance, testing, start-up, inspection and completion of the Work. Any temporary sanitation facilities shall be serviced a minimum of one (1) time weekly. 8) Contractor shall install and maintain temporary fencing with lockable gates as indicated or directed by the Agency Designated Representative.



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	9) Materials, equipment or items required for Work which are shown on the Drawings but not mentioned in the Specifications or materials, equipment or items required by the Specifications but not shown on the Drawings, shall be furnished and installed the same as though both shown on the Drawings and required by the Specifications. 10) Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the <u>Scope of Work</u>, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver and install only products that are already safe and compliant. 11) Contractor shall pursue with diligence the procurement of any long-lead-material or equipment required for the Work and provide the Agency Designated Representative with an anticipated and consistently updated schedule for the delivery. 12) Materials and equipment procured and installed by the Contractor shall be in accordance with Specifications and derived from the energy life cycle Cost analysis pursuant to the latest revision of A.R.S. §34-452. 13) For any Agency furnished equipment or Material that will be in the care, custody, and control of Contractor, Contractor is responsible for damage or loss. Agency shall deliver to Contractor a complete list and respective values of such Materials or equipment and make an equitable adjustment to the contract amount for any increase in Cost of Builder's Risk insurance. 14) Contractor shall provide and install weather-tight or temporary enclosures for protection of in progress and completed construction Work from exposure and weather. Contractor shall remove protection when no longer needed. 15) Contractor shall store Materials in their original packaging with any and all seals and labels intact and visible. 16) Contractor shall remove Agency-salvaged items with care and in a workmanship-like manner and deliver items not being reinstalled, ready for use, to a nearby area as instructed by the Agency Designated Representative.
11.35 Liquidated Damages	The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract time. Time limits stated in the Contract are of the essence of the Contract. By executing the Contract, the Contractor confirms that the Contract time is a reasonable period for performing the Work. Any Contractor delay beyond Substantial and Final Completion dates shall be subject to liquidated damages. Liquidated damages shall be assessed as detailed in the <u>Special Terms and Conditions</u>.
11.36 Life Cycle Cost Analysis	Upon the request of the Agency, the Contractor shall perform Life Cycle Cost Analysis (LCCA) to evaluate alternative Materials and systems by preparing an economic assessment of all significant Costs of ownership over the economic life.
11.37 Management and Supervision of the Work, Contractor Service	Contractor shall bear the primary responsibility for the management and supervision of the Work for Design. At a minimum, the Contractor shall regularly consult with the Agency and receive any and all necessary Agency approvals; provide updated Cost estimates and gain approval for any Material changes to Cost estimates through a Change Order prior to incurring those Costs; thoroughly research all the design elements upon which the Work relies; attend meetings related to the Work; communicate fully with all Contractors, as necessary and appropriate; and provide the Agency with regular reports on the status of the Work.
11.38 Meeting Minutes	Contractor or Agency authorized Contractor substitute, shall attend and draft complete minutes of each Project design and construction meeting between Contractor, Agency and Design Professional, and submit them to Agency for approval within five (5) calendar days after each Project conference.
11.39 Observations	Contractor observations shall be for the purpose of ascertaining the progress of the Work, to include but is not limited to, the character, scope, quality and detail of construction (including workmanship and Materials) compliance with the design expressed in the Contract Documents, directives of the Agency Designated Representative, approved product data and samples and clarification drawings. Observations shall be separate from any inspections which may be provided by the Agency. Any Agency provision of inspection services, if any, shall not relieve Contractor of its responsibilities under this Contract.



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11.40 Outline Specifications	1) Contractor shall outline specifications with a detailed description of all building components and systems shall include: a) An index showing all divisions and sections intended to be used. The format shall be that recommended by the Construction Specifications Institute (CSI), narrow scope type. b) All technical sections in outline specification format (Part 2 of a narrow scope CSI specification). 2) Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any Subcontractor.
11.41 Pre-Bid Conference Site Visit	Agency's Procurement Officer may conduct, and Construction Contractor and its Subconsultants and/or Subcontractors may attend and participate in pre-bid conferences and pre-bid Site visits with potential bidders to help identify questions that bidders may raise during the Bidding phase. Questions from prospective Bidders shall be collected by the Agency's Procurement Officer during these conferences and Site visits. No questions shall be answered at these events which require interpretation, clarification or modifications of the Contract Documents
11.42 Preconstruction Conference	Agency may conduct a Preconstruction conference after Contract award and before Construction Contractor starts Work at the Project Site. Conference discussion will establish the lines of communication among the parties as to the Work, coordination of Work, and procedures and handling of the Schedule of Values, Shop Drawing and other submittals, Construction Schedule, and Payment Application processing. The Construction Contractor, Construction Contractor's Superintendent, and Construction Contractor's designated safety officer shall attend the Pre-Construction Conference. The Design Professional shall attend if requested by Agency.
11.43 Program and Budget Review	Agency will furnish the Project program to Contractor at the start of Schematic Design. Contractor shall evaluate the Project's programmatic requirements, promptly call attention to any discrepancy contained therein, and request direction from the Agency's Designated Representative.
11.44 Project Close Out	Contractor shall submit Project Close Out documents as listed in Exhibit M in appropriate quantities as indicated in the Contract Documents to the Contractor. Contractor shall ensure documents are complete and accurate and provide written acceptance to the Agency. Contractor shall not submit final Application for Payment until documents are accepted by the Agency.
11.45 Proposed Change Order Review	During performance of Construction Phase Services, the Agency shall review Contractor's proposed Change Order(s) for fairness of pricing and make recommendations to the Agency on fairness of pricing for the Materials and Work. Any Contractor proposed Change Order shall include the estimate of Cost and of probable effect of delay on progress of the Work if any.
11.46 Proprietary Specifications	1) Under A.R.S. § 34-104, if a Contractor or the Agency includes bidding, contracting, or purchasing specifications that are proprietary to one supplier, distributor, or manufacturer, then the details of the essential characteristic of that product will be included in the <u>Special Terms and Conditions</u> with a statement indicating that the Contractor shall consider alternative products which have the aforementioned desired essential characteristics. 2) Design Professional shall consider, and provide recommendations to the Agency to either approve or reject, any and all alternative product proposals that are submitted at least eight (8) days prior to the deadline for receiving bids for this Solicitation. If any alternative product proposal is approved, the Design Professional shall modify the bidding documents to include the alternative product proposal by the end of the fifth day prior to the deadline for receiving bids and publish the documents that same day. If the Design Professional considers rejection of any alternative product proposal, the Design Professional shall provide the Agency with notice of that rejection, including the details of the alternative product proposal, prior to the deadline for receiving bids. 3) No modification shall be made without the approval of Agency.
11.47 Quality Assurance	The Contractor shall have a well-coordinated internal Quality Assurance program for review of documents, plan check, and incorporates the Agency's



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	drawings and specification requirements to assure consistent submittal to Statutory Review.
11.48 Recalls	The Contractor shall provide the Agency with timely notice of any recall notice, technical service bulletin, or other important notification affecting the Work. (collectively, "recalls" hereinafter). Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on Agency's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.
11.49 Recovery of Work Effort	At any time, the Contractor presents a Work Progress Schedule and the forecast indicates the Contractor will not finish critical path or milestone Work within fourteen (14) days of the time originally scheduled for completion of the Work (potentially causing a delay of the Substantial Completion date), the Contractor shall provide a new recovery plan for Work to the Agency Designated Representative. The Contractor new recovery plan for Work shall address at a minimum additional efforts for concurrent operations, logic and sequence changes, additional manpower, additional shifts, or overtime work at no Cost or extension of time for Substantial Completion to the Agency. Upon approval of the Agency Designated Representative the recovery plan for Work will become the updated Work Progress Schedule.
11.50 Record Documents	1) UPDATING RECORD DOCUMENTS. Design Professional shall be responsible for updating the Record Documents for all Contractor initiated documents and changes to the Contract Documents due to coordination and actual field conditions, including RFIs. Design Professional shall be responsible for updating the Record Documents for any addenda, Change Orders, Contractor supplemental instructions and any other alterations to the Contract Documents generated by Contractor or Agency. 2) MAINTAIN AT SITE. Contractor shall maintain at the Site one copy of all Drawings, Specifications, addenda, approved submittals, Contract modifications, and all Project correspondence and provide Agency and Contractor access to these documents for reference and examination. Keep current and maintain Drawings and Specifications in good order with postings and markings to record actual conditions of Work and show and reference all changes made during construction reflect the actual field conditions and representations of the Work performed, whether it be directed by addendum, Change Order or otherwise. 3) MONTHLY UPDATE. Record Documents shall be updated a minimum of monthly prior to submission of a Payment Application or as otherwise directed by Agency. Contractor failure to maintain current Record Documents shall constitute cause for Agency denial of a Progress Payment otherwise due. 4) TRANSFER OF RECORD DOCUMENTS TO AGENCY. Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties and like publications, or parts for all installed equipment, systems, and like items and as described in the Contract Documents prior to requesting Substantial Completion inspection with the Contractor. After review by the Contractor and acceptance by the Agency Designated Representative, one (1) electronic media copy and one (1) reproducible copy of the Record Documents shall be provided in the format designated by the Agency Designated Representative. 5) PREPARATION OF RECORD DOCUMENTS. Record Documents shall be carefully and neatly prepared by a competent drafter familiar with the Work.
11.51 Requirements at Location	1) Contractor acknowledges that the location of its Work for the Project might be inside an industrial building, institutional building, or one of various office types and classes and Contractor personnel shall conduct themselves cordially and professionally with State personnel and the public. 2) When performing the Work requires Contractor personnel to Work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for Work, visitor dress code, and other applicable rules. Agency will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions. 3) Contractor shall ensure Contractor personnel and Subconsultants and/or Subcontractors performing Work at the Project Site: a) Park in any assigned location at the Site;



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	b) Have proper State or federal issued identification within their possession at all times; c) No eating, drinking, or smoking is consumed except in designated areas. 4) Contractor shall adequately monitor and control noise levels.
11.52 Returns	1) Agency may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within 30 (thirty) days after receipt. 2) If Agency elects to return delivered Materials, then Agency shall pay all freight, delivery, and transit insurance Costs to return the products to the place from which Contractor shipped them, provided that, if Agency returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then Agency will not be responsible for paying freight, delivery, or transit insurance Costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.6 [Right of Offset].
11.53 Schedule of Values	Prior to the execution of Work, the Contractor shall submit to the Agency for approval a Schedule of Values (See Exhibit R) allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy. This Schedule of Values, unless objected to by the Design Professional and/or Agency Designated Representative, shall be used as a basis for reviewing the Contractor's Payment Applications. The Schedule of Values shall include quantities and unit prices aggregating the Contract Cost, and for lump sum items shall subdivide the Work into component parts in sufficient detail to serve as the basis for Progress Payments during construction.
11.54 Shop Drawings, Product Data and Samples	1) The Contractor shall maintain at the Site for the Agency one record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Contractor and/or Agency and shall be delivered to the Contractor for submittal to the Owner upon completion of the Work. 2) Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract. 3) The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been reviewed and approved or other appropriate action taken by the Design Professional and/or Agency. Such Work shall be in accordance with approved submittals. 4) The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract by the Design Professional's and/or Agency's review and approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Design Professional and/or Agency in writing of such deviation at the time of submittal and the Design Professional and/or Agency has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Design Professional's and/or Agency's approval thereof. 5) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, product Data, Samples or similar submittals, to revisions other than those requested by the Design Professional on previous submittals. 6) When professional certification of performance criteria of Materials, systems or equipment is required by the Contract, the Contractor shall be entitled to rely upon the accuracy and completeness of such calculations and certifications but shall use due care and identify and notify the Agency of any palpable errors. 7) Contractor shall submit Shop Drawings to the Design Professional and State Fire Marshall or appropriate authority having jurisdiction for any required modifications to sprinkler or alarm system Work. 8) Contractor will update to show actual conditions for Work specified and shall submit final Shop Drawings to Agency.



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11.55 Special Inspections and Testing	The Agency shall recommend special inspection or testing and any retesting of the Work in accordance with the provisions of the Contract Documents if, in Agency's reasonable opinion, such inspection or testing or retesting is necessary or advisable for the implementation of the Contract Documents, regardless of the state of completion of the Work subject to such inspection or testing or retesting.
11.56 Specification Submittal Requirements; Contractor	1) Specifications shall be in CSI format. Each specification section shall be saved as a document file named with the corresponding Master format number (e.g., 134010.doc). 2) Contractor shall submit a list of each item of equipment and/or each system to be designated as sole source by the notation in the documents, "or equivalent (no known equivalent)". This list shall include the following information: a) Description of each item of equipment and/or each system; b) Provide estimated Cost of each item of equipment and/or each system; Agency Procurement Officer shall write determination justification as to why each item of equipment and/or each system needs to be from a sole brand name or source. c) Include brief performance specifications detailing those features which, because they are unique or state-of-the-art, or the preclude use of an alternative product. 3) Specifications shall be: a) Complete, coordinated and consistent with each other and the drawings. b) Coordinated with the Agency's General Conditions and Requirements. c) Written for a two-party Contract between the Agency and the Contractor. d) Written with open specifications for Material and equipment except in specifically permitted exceptions in conjunction with Agency Procurement Officer's approved written determination of sole brand name or source.
11.57 Statutory Review	1) The Contractor shall design and prepare the Construction Documents in compliance with all applicable laws, codes, regulations, and generally accepted engineering and design standards, and shall incorporate any and all Agency Standards where applicable to their Work. 2) The Contractor shall submit final Construction Documents for review to the Agency Designated Representative for submittal to the Statutory Review. Contractor shall verify presentation requirements for the review with the Agency's Designated Representative. The Arizona Department of Administration Statutory Review is the authority having jurisdiction and is the enforcement agency for code requirements. 3) The initial submission fee and one (1) re-review fee for submission to the Statutory Review may be paid by the Agency or paid by Contractor firm a part of a Reimbursable Expense as requested by the Agency. Any subsequent submission fees shall be paid by the Contractor firm in accordance with the Solicitation Performance Guarantee requirements. 4) Contractor shall give Agency sufficient rights and privileges to use to any and all Contractor Work in furtherance of the Scope of Work including, but not limited to, distribution and submission of Contractor Work
11.58 Structural, Mechanical, Electrical, Calculations	Contractor shall provide Agency the Project structural, mechanical, and electrical calculations upon request. Calculations shall be checked and stamped by an engineer registered in the applicable discipline.
11.59 Submittal Register	The Contractor shall prepare and keep current, for the Design Professional's approval, a schedule of submittals which is coordinated with the Contractor's Construction Schedule and allows the Contractor reasonable time to review Submittals.
11.60 Substantial and Final Completion	1) PUNCH LIST. Contractor shall notify the Agency when the Contractor considers the Work, or a portion thereof Substantially Complete. Contractor shall submit the signed Punch List to the Agency with a request for a Substantial Completion inspection completion of the Work. The Agency shall inspect the Work and prepare a Punch List of defective, incomplete, or unacceptable Work not in compliance with the Contract Documents or items the Contractor is requesting to be deferred for completion. 2) SUBSTANTIAL COMPLETION INSPECTION. The Contractor and/or Agency shall review the request for Substantial Completion inspection of the Work and accept or reject the request stating reasons for rejection. The Contractor shall notify the Agency Designated Representative of the scheduled inspection time. Within a reasonable time after acceptance of request, Agency shall conduct the inspection to determine whether the Work, or a portion thereof, is useable for its intended purpose and is in



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	conformance with the Contract Documents. If the Agency determines the Work is Substantially Complete, the Agency shall prepare a Certificate of Substantial Completion and shall include a Punch List of incomplete, defective, and unacceptable items the Contractor has not been completed as of the established date of Substantial Completion. Contractor shall pursue to correct all items on the Punch List on or before Final Completion. Failure of the Agency to include an item on the Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents. If the Agency determines the Work is not Substantially Complete the Contractor shall reschedule for an additional Substantial Completion inspection. 3) COMPLETION OF PUNCH LIST. Within thirty (30) days after the date of Substantial Completion certification by the Agency, and prior to the date of Final Completion, the Contractor shall complete all items on the Punch List. Contractor shall submit a written request to the Agency for a Final Completion inspection of the Work. The Agency shall review the Work and issue a Final Completion certification for the Work final complete in accordance with the Contract Documents. 4) RE-INSPECTION EXPENSES. Agency shall submit re-inspection expense incurred by the Contractor during any partial Substantial Completion of Work, or a portion of Work thereof and Final Completion of Work. 5) PARTIAL OCCUPANCY. The Agency may occupy or use a portion of the Project prior to Contract completion if the authority having jurisdiction over the Project authorizes the Agency to occupy the portion of the Project through issuance of a partial certificate of occupancy. The Contractor shall proceed with submission to the Agency for a Substantial Completion inspection for the portion of the Work Project prior to the Agency occupying or using a portion of the Project. 6) FINAL COMPLETION. The Contractor may submit a final Application for Payment inclusive of Waivers of Lien upon Final Completion for certification by the Agency.
11.61 Substitution of Material or Equipment	1) Contractor shall not order or install any substitute Material or equipment without the Agency Designated Representative prior written approval of the substitute. 2) If Contract is a firm fixed price, all substitution requests shall be submitted by the Contractor in accordance with the <u>Solicitation Instructions to Offerors</u> and approved by the Agency Designated Representative prior to the Bid Opening Date listed in the State e-procurement system. Prior to the Bid Opening Date, the Agency Procurement Officer issued Addenda authorizing use of the substitute shall serve as the written approval. 3) Agency Designated Representative shall review all Contractor furnished data for review to include maintenance, repair, and replacement for the proposed substitute. 4) The Agency may not approve any extension of Contract time for Contractor Project completion due to a substitute unless Agency determines the time extension is in the best interest of the State.
11.62 Supervision and Project Administration	1) The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract either by activities or duties of the Agency in the Agency's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor. 2) The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. 3) Contractor shall provide project administration for all Contractor's Subcontractors, vendors, suppliers, and others involved in implementing the Work and shall coordinate administration efforts with those of the Contractor and Agency Designated Representative. 4) Contractor's project administration includes periodic daily reporting on weather, Work progress, labor, Materials, equipment, any and all obstructions to prosecution of the Work, accidents and injuries, and transmitted no less frequently to the Agency Designated Representative than on a weekly basis. 5) The Contractor shall be responsible to the Agency for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work for the Contractor.
11.63 Surplus of Materials Purchased	1) After completion of installation the Contractor shall return any unused Materials purchased under an Allowance to the supplier or manufacturer (when allowed by manufacturer) for credit to the Agency for the Cost of Work if determined economically practical by the Agency. 2) If Agency determines unused Materials are not economically practical to return, the Contractor shall dispose of Material or place in Agency storage as directed by the Agency Designated Representative.



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11.64 Survey Reference Points	Contractor shall be responsible for laying out the Work, shall protect and preserve the established survey reference points and shall make no changes or relocations without the prior written approval of the Agency. Contractor shall report to Agency Designated Representative whenever any monument or reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. Contractor shall be responsible for replacement or relocation of such reference points by a licensed surveyor.
11.65 Training	Contractor shall provide training to Agency designated personnel including operation and maintenance for all newly installed equipment or controls for the Project.
11.66 Transition	If needed, during commencement, Contractor shall attend transition meetings with any outgoing Contractors to coordinate and ease the transition so that the effect on State's operations is kept to a minimum. Agency may elect to have outgoing Contractors complete some or all of their Work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract. Upon the expiration or termination of the Contract, Contractor shall Work closely with any new (incoming) vendor and Agency to ensure as smooth and complete a transfer as is practicable. Agency's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming vendor.
11.67 Unknown, Unforeseen, or Concealed Conditions	1) If conditions are encountered at the Site which are (a) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (b) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than twenty four hours after first observance of the conditions. 2) It is understood that Contractor, prior to award, has inspected the site, was free to do its own tests and inspections, and in undertaking this contract, warrants that the site is suitable for construction and accepts the risk of all site conditions. 3) Any reports and Materials provided to Contractor prior to construction are for informational purposes only. However, if Contractor believes that the Agency materially misrepresented the condition of the Site then the Agency will promptly investigate such conditions. Should the Agency determine that the Site differs from the Contract Documents such that there will be a material change to Contractor's Contract Cost and/or Schedule for the performance of any part of the Work, then the Agency will recommend an equitable adjustment in the Contract Cost and/or Contract time. If the Agency determines that the conditions at the Site are not materially different from those indicated in the Contract Documents, and no change in the Contractor's Cost or Schedule is justified, then the Agency shall so notify the Contractor in writing stating the reasons.
11.68 Use of Seals; Contractors	"Seal" refers to the type of "seal" required by A.R.S. § 32-101, <i>et seq.</i> , and the rules promulgated thereunder, A.A.C. R4-30-01, <i>et seq.</i> , or any equivalent licensing body, for use on Work performed by Contractors. Contractor shall affix its Seal to any and all documents required by the Work that are incomplete without such a Seal including, but not limited to, design specifications, data, and construction drawings. Contractor will accept professional responsibility for its Work including, but not limited to, any and all information upon which its Seal is affixed.
11.69 Work Performance; Contractor	1) Contractor warrants that it has and will hire any and all design professional necessary to perform the work under this contract and that such design professionals will be highly competent and properly licensed, certified, and registered to carry out the work required under this contract. 2) Contractor warrants that all work performed by the Design Professionals hired by it shall meet the highest standards of reasonableness care and skill, ordinarily provided by highly competent professional engineers, architects, or consultants practicing in the same or similar locality and under the same or similar circumstances. Contractor further warrants that all work performed by such Design Professional shall be expeditious as well as prudent taking into account



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	the ordinary professional skill and care expected of a highly competent engineer, architect, or other consultant. 3) Contractor agrees and understands that it shall be fully responsible to the agency for any and all acts and omissions of Contractor's Subcontracts, supplier, agents, consultants, architects, engineers, or any other designers engaged by contractor to perform work on the project together with their respective employees. 4) Contractor understands and agrees that Agent shall be the intended third-party beneficiary of any and all contacts between the contractor and all third parties, including subcontractors and designers who will perform work in connection with this project. Contractor will ensure that this requirement is incorporated in all such contracts is has with third parties.
11.70 Utilities	1) The Contractor is responsible for locating all existing utilities prior to Work. 2) Unless otherwise provided in the Contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Agency or, where the utility is produced by the Agency, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge. 3) Contract shall provide temporary heat and ventilation as required to maintain environmental conditions for installation or installed Material to meet, protect, dry, or cure conditions. Use of heating or ventilation equipment types shall be authorized by Agency Designated Representative or Design Professional. 4) Temporary lighting shall be adequate for construction and traffic conditions. 5) The Contractor, at its expense and in a workmanlike manner satisfactory to the Agency Designated Representative, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the Work by the Agency, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia. 6) Contractor temporary utilities shall fulfill any and all security, protection, and safety requirements.
11.71 Utility Shut Down and Start-Up	Contractor shall coordinate all utility shutdown and start-up required for performance of Work through the Agency Designated Representative.
12.0 Agency Responsibilities	
12.1 Access to Work Site	The Agency will provide Contractor with access to the Work Site, as necessary, for the preparation for, and review of, the Work.
12.2 Accuracy of Information	Agency may provide in the Solicitation, or by other means, any reports of investigations and tests of subsurface and latent physical conditions at the Site, and any reports of conditions that otherwise may affect Cost. These reports are not intended to constitute any explicit or implicit representation as to the nature of the subsurface and latent physical conditions which may be encountered at the Site or to constitute explicit or implicit representations as to any other matter contained in any report. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents.
12.3 Errors or Omissions	The Agency will promptly notify the Contractor in writing if it becomes aware of a Material error, potential error, or omission in the Work or Construction Documents.
12.4 Site Information	The Agency will provide the Contractor with basic information regarding the Site locations at which the Work will be performed. This basic information may include surveys, Site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations.
12.5 Communications	The Agency will facilitate communication with Contractor and other Agency contractors, as needed.
12.6 Contractor Agreements, Related Construction	The Agency will meet with the Contractor to coordinate its Work prior to finalizing a related Construction Contract. Any related Construction Contracts will be made available through the State's eProcurement system.
12.7 Promotional Materials	Agency will endeavor to timely review and respond to any written Contractor request for permission for use of photographic or other artistic representation of the Work for promotional or other professional Materials. Agency shall have



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	full discretion to determine whether to allow Contractor use of the representations.
12.8 Substitutions of Material	Design Professional and/or Agency shall approve any and all substitutions that would cause a change in the Work of the Contractor.
12.9 Timely Review	The Agency will endeavor to timely review and respond to any requests from the Contractor that the Design Professional deems necessary to avoid delay or modification to the Schedule.
13.0 Data and Information Handling	
13.1 Applicability	Article 13 applies to the extent the Work includes handling of any (a) State's proprietary and sensitive data or (b) confidential or access-restricted information obtained from Agency or from others at Agency's behest.
13.2 Data Protection and Confidentiality of Information	1) Contractor warrants that it will establish and maintain procedures and controls acceptable to Agency for ensuring that Agency's proprietary and sensitive data is protected from unauthorized access and information obtained from Agency or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by the Agency, or prepared by others for the Agency are proprietary to Agency, and all information by those same avenues is Agency's confidential information. To comply with the foregoing warrant. a) Contractor shall: i) Notify Agency immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; ii) Cooperate with Agency to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and iii) Notify Agency promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and b) Contractor shall not: i) Release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless Agency has agreed otherwise in advance and in writing; or ii) respond to any requests it receives from a third party for such data or information, and instead route all such requests to Agency's designated representative.
13.3 Personally Identifiable Information	1) Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other Contractors or members of the general public that it receives from Agency or otherwise acquires in its performance under the Contract. 2) For purposes of this paragraph: a) PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and b) "Protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) <i>Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information</i>. NOTE (1): For convenience of reference only, the OMB memorandum is available at: https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf NOTE (2): For convenience of reference only, the GSA directive is available at: http://www.gsa.gov/portal/directive/d0/content/658222



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13.4 Protected Health Information	1) Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it: a) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (1) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (2) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (3) Agency's current and published PHI/ePHI privacy and security policies and procedures; b) Will cooperate with Agency in the course of performing under the Contract so that both Agency and Contractor stay in compliance with the requirements in (a) above; c) and will sign any documents that are reasonably necessary to keep both Agency and Contractor in compliance with the requirements in (a) above, in particular "Business Associate Agreements" in accordance with the Privacy Rule. NOTE: For convenience of reference only, the Privacy Rule is available at: http://www.hhs.gov/hipaa/for-professionals/privacy/index.html
14.0 Information Technology Work	
14.1 Applicability	Article 14 applies to any Invitation for Bids, Request for Qualifications, or Request for Quotations for "Information Technology," as defined In A.R.S. § 41-3501(6): "computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects" if and to the extent that the Work is or includes Information Technology.
14.2 Information Access	1) SYSTEM MEASURES. Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting State's proprietary data or confidential information. 2) INDIVIDUAL MEASURES. Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Contractor is responsible to Agency for ensuring that any State Access IDs and passwords are used only by the person to whom they were issued. Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Contractor shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel. 3) ACCESS CONTROL. Contractor is responsible to Agency for ensuring that hardware, software, data, information, and that has been provided by Agency or belongs to or is in the custody of Agency and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. Agency may restrict access by Contractor personnel, or instruct Contractor to restrict access their access, if in its determination the requirements of this subparagraph are not being met.
14.3 Pass-Through Indemnity	1) INDEMNITY FROM THIRD PARTY. For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Contractor may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to Agency such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with Agency in enforcing that indemnity. If



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	the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify State Indemnitees to the extent and degree Contractor is required to do by the Uniform Terms and Conditions, then Contractor shall indemnify, defend and hold harmless State Indemnitees to the extent the Pass-Through Indemnity does not. 2) NOTIFY OF CLAIMS. Agency shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from Agency, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that: - Agency reserves the right to elect to participate in the action at its own expense; - Agency reserves the right to approve or reject any settlement or compromise on - reasonable grounds and if done so timely; and - Agency shall in any case cooperate in the defense and any related settlement - negotiations.
14.4 Redress of Infringement.	1) REPLACE, LICENSE, OR MODIFY. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Contractor shall at its sole Cost and expense and in consultation with Agency either: - Replace any infringing items with non-infringing ones; - Obtain for Agency the right to continue using the infringing items; or - Modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification. 2) CANCELLATION OPTION. In every case under 14.5, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, Agency may cancel the relevant Order or terminate the Contract and Contractor shall take back the infringing items. If Agency does cancel the Order or terminate the Contract, Contractor shall refund to Agency: - For any software created for Agency under the Contract, the amount Agency paid to Contractor for creating it; - For all other Materials, the net book value of the product or actual monies paid by the Agency provided according to generally accepted accounting principles; and - For Services, the amount paid by Agency or an amount equal to twelve (12) months of charges, whichever is less. 3) EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee: - Modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor; - Operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or - Combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.
14.5 First Party Liability Limitation	1) LIMIT. Subject to the provisos that follow below and unless stated otherwise in the <u>Special Terms and General Conditions</u>, Agency's and Contractor's respective first party liability arising from or related to the Contract is limited to the lesser of \$1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim. 2) PROVISIONS. This paragraph limits liability of any and all damages to which first party is entitled under this Contract or that comes out of performance or concerns this contract, regardless of the legal theory under which the liability is



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	asserted. This paragraph 14.5 does not limit the effect of Paragraph 6.2 of this Contract. 3) PURCHASE PRICE DETERMINATION. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all change orders or other forms of Contract Amendment having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order. 4) NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.
14.6 Information Technology Warranty	1) SYSTEM MEASURES. Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting Agency's proprietary data or confidential information. 2) INDIVIDUAL MEASURES. Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Contractor is responsible to Agency for ensuring that any State Access IDs and passwords are used only by the person to whom they were issued. 3) Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Contractor shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel. 4) ACCESS CONTROL. Contractor is responsible to Agency for ensuring that hardware, software, data, information, and that has been provided by Agency or belongs to or is in the custody of Agency and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. Agency may restrict access by Contractor personnel, or instruct Contractor to restrict access their access, if in its determination the requirements of this subparagraph are not being met.
14.7 Specific Remedies	Unless expressly stated otherwise elsewhere in the Contract, Agency's remedy for breach of warranty under paragraph includes, at Agency's discretion, re-performance, repair, replacement, or refund of any amounts paid by Agency for the nonconforming Work, plus (in every case) Construction Contractor's payment of Agency's additional, documented, and reasonable Costs to procure Materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the First Party Liability Limitation. If none of the foregoing options can reasonably be effected, or if the use of the Materials by Agency is made impractical by the nonconformance, then Agency may seek any remedy available to it under law.

End of Uniform Terms and Conditions

	Contract Amendment		Arizona Department of Administration General Services Division 1400 W. Washington St, Suite B200 Phoenix, AZ 85007
	APP No.: CTR057393 Contract ID.: Commercial Modular Buildings		
	Amendment #1 Contract Extension	Date: 9/28/2022	

MODULAR SOLUTIONS LTD

1. The above mentioned contract is hereby amended as follows:
 - a. In accordance with the Special Terms and Conditions, Section 3.2 Contract Extensions, the above referenced contract shall be extended from 9/28/2022 to 9/28/2023.
 - b. In accordance with the Special Terms and Conditions, Section 3.4 Signing of Contract Amendments, Counter-Signature or "Approval" is not required for contract extensions.

All other terms, conditions and provisions remain unchanged.

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in APP by an authorized representative of the Contractor and applied to the contract in APP by the Procurement Officer or delegate.



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General Services Division100 N. 15th Ave., Suite 103
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Part 3 of the Solicitation

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Section 3-A: Instructions to Offerors

1.0 Definition of Terms

As used in these Instructions to Offerors, the terms listed below are defined as follows:

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|--|---|
| <p>1.1 Arizona Procurement Code; A.R.S.; A.A.C.</p> | <p>“Arizona Procurement Code” means, collectively, Title 41 Chapter 23, <i>et. sequitur</i>, in the Arizona Revised Statutes (abbreviated “A.R.S.”) and administrative rules R2-7-101 <i>et. sequitur</i> in the Arizona Administrative Code (abbreviated “A.A.C.”).</p> <p>NOTE: There are frequent references to the Arizona Procurement Code throughout the Solicitation Documents, therefore, you will need to be familiar with its provisions to be able to understand the Solicitation Documents fully.</p> <p>The Arizona Department of Administration State Procurement Office provides a reference compilation of the Arizona Procurement Code on its website:</p> <p style="text-align: center;">https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations</p> <p>The Arizona State Legislature provides the official A.R.S. online at:</p> <p style="text-align: center;">http://www.azleg.gov/ArizonaRevisedStatutes.asp</p> <p>The Office of the Arizona Secretary of State provides the official A.A.C. online at:</p> <p style="text-align: center;">http://www.azsos.gov/rules/arizona-administrative-code</p> |
| <p>1.2 Clarifications</p> | <p>“Clarifications” means, per A.A.C. R2-7-C313, communications between the Procurement Officer and Offeror for the purpose of providing a greater mutual understanding of the Offer. Clarifications may include demonstrations, questions and answers, or elaborations on previously-submitted information.</p> |
| <p>1.3 Contract</p> | <p>“Contract” is defined in paragraph 1.2 of the <u>Uniform Terms and Conditions</u>.</p> |
| <p>1.4 Contract Amendment</p> | <p>“Contract Amendment” is defined in paragraph 1.3 of the <u>Uniform Terms and Conditions</u>.</p> |
| <p>1.5 Contract Terms and Conditions</p> | <p>Contract Terms and Conditions” is defined in paragraph 1.8 of the <u>Special Terms and Conditions</u>.</p> |
| <p>1.6 Contractor</p> | <p>“Contractor” is defined in paragraph 1.4 of the <u>Uniform Terms and Conditions</u>.</p> |
| <p>1.7 Evaluation</p> | <p>“Evaluation” means, per A.A.C. R2-7-316, the process whereby the Procurement Officer will determine which Responsive offers, revised offers, and best and final offers are the most advantageous to State taking into consideration the evaluation factors set forth in the Solicitation Documents.</p> |
| <p>1.8 Negotiation</p> | <p>“Negotiation” means, per A.A.C. R2-7-101(32), an exchange or series of exchanges between State and an offeror for the purposes set forth in A.A.C. R2-7-C314.</p> |
| <p>1.9 Not Susceptible for Award</p> | <p>“Not Susceptible for Award” means, per A.A.C. R2-7-C311, that the relevant offer has been determined by the Procurement Officer to fail one or more of the tests and comparisons set forth therein. NOTE: A determination of Not Susceptible for Award and a determination of Responsive are mutually exclusive.</p> |
| <p>1.10 Offer: Initial Offer; Revised Offer;</p> | <p>“Initial Offer” means, per A.A.C. R2-7-101(33), Offeror’s proposal submitted to State in response to the Solicitation, as initially submitted.</p> |



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**Best and Final Offer
(BAFO)**

"Revised Offer" means any revised versions of the Initial Offer that Offeror has submitted to State at State's request as permitted under A.A.C. R2-7-C314 and R2-7-C315.

"Best and Final Offer" ("BAFO") means, per A.A.C. R2-7-101(8), the Revised Offer submitted after negotiations have been completed that contain Offeror's most favorable terms for price, service, and products to be delivered.

Reference to "an Offer," "the Offer," or "your Offer" means any of the Initial Offer, a Revised Offer, or the Best and Final Offer.

1.11 Offeror

"Offeror" is the Person submitting an Offer; instructions addressed to "you" and references to "your" items are to be construed as being synonymous with "Offeror" and "Offeror's" throughout these Instructions to Offerors.

1.12 Pricing Document

"Pricing Document" means Section 2-B of the Solicitation Documents. Also known as Pricing Document as defined in the Special Terms and Conditions.

1.13 The State's e-Procurement System

"The State's e-Procurement System" is defined in paragraph 1.16 of the Special Terms and Conditions.

1.14 Procurement Officer

"Procurement Officer" means the person, or his or her designee, who has been duly authorized by State to administer the Solicitation and make written determinations with respect to the Solicitation. The Procurement Officer is identified in The State's e-Procurement System.

1.15 Solicitation

"Solicitation" means this procurement solicitation, which State is issuing as either:

1. an invitation for bids ("IFB") under A.R.S. § 41-2533;
2. a request for proposals ("RFP") under A.R.S. § 41-2534;
3. a request for quotations ("RFQ") under A.R.S. § 41-2535; or
4. a request for qualifications under A.R.S. § 41-2558.

Refer to the Solicitation Summary for which of the foregoing is this Solicitation.

1.16 Solicitation Amendment

"Solicitation Amendment" means, per A.A.C. R2-7-303, a change to the Solicitation that has been issued by Procurement Officer.

1.17 Solicitation Summary

"Solicitation Summary" means Section 1 of the Solicitation Documents.

1.18 State

"State" is defined in paragraph 1.11 of the Uniform Terms and Conditions.

1.19 Subcontract

"Subcontract" is defined in paragraph 1.13 of the Uniform Terms and Conditions.

1.20 Subcontractor

"Subcontractor" is defined in paragraph 1.19 of the Special Terms and Conditions.

2.0 Solicitation Inquiries

2.1 Duty to Examine

Examine the entire Solicitation, obtain clarification in writing for any questions or concerns by submitting inquiries, then examine your Offer thoroughly and carefully for completeness and accuracy before submitting it. Lack of care in preparing an Offer will not be grounds for modifying or withdrawing it after the due date and time.

2.2 State Contact Person

Direct all inquiries related to the Solicitation to Procurement Officer, including requests for or inquiries regarding standards referenced in the Solicitation. Apart from the State's e-Procurement System Help Desk, do not contact any State personnel other than Procurement Officer concerning the Solicitation while it is in progress, through and including award.



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2.3 Submission of Inquiries

Submit all inquiries related to the Solicitation in The State's e-Procurement System. The Procurement Officer will not respond to inquiries received in any other manner.

1. Submit technical inquiries about navigating and/or submitting proposals in the State's e-Procurement System to the State's e-Procurement System Help Desk:
 - by phone at (602) 542-7600, option2; or
 - by email to app@azdoa.gov.
2. Submit all other inquiries about the Solicitation using the **"Discussions with Buyer" tab in the State's e-Procurement System**. Always refer to the appropriate Solicitation document by page and paragraph number. Except for technical inquiries about navigating and/or submitting proposals in the State's e-Procurement system, the State is not responsible for responding to any inquiries submitted **less than three (3) business days before the Bid/Offer due date and time**.

2.4 Timeliness

Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least three (3) days before the Bid/Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

2.5 Verbal or Email Responses

An Offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the solicitation.

2.6 Solicitation Amendments

Only a Solicitation Amendment issued in The State's e-Procurement System can change the Solicitation.

2.7 Pre-Offer Conference

A Pre-Offer Conference will be held at the time and place indicated in the solicitation's "Process" field as found within the State's e-Procurement system, (<https://app.az.gov>); attendance is not required. The purpose of the conference will be to clarify the contents of the solicitation in order to prevent any misunderstanding of the State of Arizona's position. Any doubt as to the requirements of the solicitation or any apparent omission or discrepancy should be presented to the State at the conference. The State of Arizona will then determine the appropriate action necessary, if any, and issue a written amendment to the solicitation if required. Oral statements or instructions will not constitute an amendment to the solicitation.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the State Procurement Office. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

3.0 Offer Preparation

3.1 Online Documents

The Solicitation Documents are only provided online in The State's e-Procurement System; State will not provide any printed copies or other formats.

3.2 Electronic Submissions

When submitting an Offer, only include files that are Microsoft Word documents, Excel workbooks, or PowerPoint presentations and Adobe Acrobat documents. Obtain advance approval before submitting files in any other format.

3.3 Deviations in Offer

When submitting an Offer, clearly indicate in writing any deviations from the Specifications or other Solicitation technical requirements documents. Any un-identified deviation will be deemed void upon submission.



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NOTE: Deviations are technical exceptions of a significant but not material nature, typically having to do with part/model numbers, details of attachments, mountings, clearances, internal configurations, etc., and are not to be confused with the material exceptions covered in paragraph 3.5.

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| 3.4 Evidence of Intent | Every one of your Offer submissions (e.g. initial submission and any subsequent re-submission) must contain <u>Attachment 1 [Offer and Acceptance Form]</u> with a signature by your duly authorized officer, executive, principal, or agent. The signature will be deemed to signify your intent to be bound by that Offer and the terms of the Solicitation, and your representation that the information you have provided in that Offer is true and accurate. |
| 3.5 Exceptions to Solicitation Documents | If you are submitting an Offer conditioned on exceptions to the Solicitation Documents, indicate "NO" on <u>Attachment 5-B [Conformance Statement]</u> and provide the required justification. Any exceptions taken elsewhere in an Offer or any of your preprinted or standard terms will be void in that Offer and without force or effect in any resulting contract. |
| 3.6 Insurance and Bonds | <p>Provide the evidence of insurance availability, evidence of insurance in place, evidence of bonding capacity, bonds in hand, or other security that are called for in <u>Attachment 5-C [Insurance and Bonding Evidence]</u>.</p> <p>If you intend to withhold or redact any element of your evidence of insurance policy compliance required by Section 6.2 of the <u>Special Terms and Conditions [Contractor Insurance Requirements]</u> on the grounds that it is confidential information, then you must claim it as such and submit the necessary substantiated justification with each Offer using <u>Attachment 5-A [Designation of Confidential Information]</u> and as per Instruction 4.7 Confidential Documents below.</p> <p>Unless Procurement Officer has determined that your evidence documentation, or some or all your insurance program, is confidential information under paragraph 4.7, refusing after contract award to provide the complete, un-redacted copies of policies as called for in that exhibit will be a material breach of the Contract.</p> |
| 3.7 Identification of Taxes in Offer | State is subject to Arizona Transaction Privilege Tax as well as certain local sales/use taxes, as described in the <u>Contract Terms and Conditions</u> . |
| 3.8 Excise Tax | State is exempt from certain federal excise tax on manufactured goods; State will provide the necessary exemption certificates as evidence to the extent exemption applies to the Work. |
| 3.9 Tax Identification | You must provide to State your federal employer identification number or social security number for the purposes of reporting monies paid under the Contract to appropriate taxing authorities. The submission is mandatory under 26 U.S.C. §6041A. If the identifier provided is a social security number, State shall only use it for tax reporting purposes and only share it with appropriate government officials. |
| 3.10 Disclosure | If you are submitting an Offer despite having been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, then you must provide with that Offer the name and address of the governmental unit, the effective date, duration, and circumstances of the suspension, debarment, or other preclusion, and your justification for State to consider the Offer despite the suspension, debarment, or other preclusion. Include in your disclosure any suspension, debarment, or other preclusion that is pending, but indicate that it is pending. |



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3.11 Federal Immigration Laws

By signing an Offer, you will be deemed to have represented that both you and all your proposed subcontractors are in compliance with federal immigration laws and regulations relating to the immigration status of their personnel. State may, at its discretion, demand evidence of compliance during Evaluation, which you must provide promptly. Not providing the evidence will be grounds for Procurement Officer to determine that the Offer is Not Susceptible for Award.

3.12 Cost of Offer Preparation

State will not reimburse to you or any of your prospective subcontractors, suppliers, or consultants any costs associated with responding to the Solicitation.

3.13 Offshore Performance of Work Prohibited

Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

4.0 Submission of Offer

4.1 Required Offer Content

INITIAL SUBMISSION:

Submit all of the Initial Offer content called for in Section 3-B: Offer Forms (Attachments).

BEST and FINAL OFFER

Best and Final Offer (BAFO) must contain all of the Attachments indicated in the applicable Procurement Officer request for a Submitted Offer. Make revisions in response to the negotiations / discussions and the Procurement Officer's Request for Best and Final Offer in all applicable documents and pricing grid in the State's e-procurement system.

4.2 Attachment Forms

If an Attachment indicates that a "Form" is being provided for an Attachment, then the Solicitation includes the required form and format for submitting the Attachment. No other form or format will be accepted, and your Offer can be determined to be Not Susceptible for Award if you submit an unofficial form.

If, however, the Solicitation Documents indicate that you are allowed to attach additional documents regarding a particular question or line item, then doing so will be acceptable so long as the filled-out Attachment clearly states "**See Attachment X Supplement (#1 of 2)**", etc., and the additional document is clearly marked as "**Attachment X Supplement (#1 of 2)**", etc.

NOTE (1): Each Form has a blank space to list your Attachment Supplements.

NOTE (2): You must upload each such "additional" document as an individual file and name the file to match the document title.

NOTE (3): Do not include non-specific marketing materials in an Offer. If something is not specifically called for, then including it will not be helpful during Evaluation, and might in fact be grounds for down-grading if it does not address your experience and capacity to carry out the work for this Solicitation.

4.3 Pricing

Pricing must be shown in the Items Tab in APP.

4.4 Submission

Submit each Offer online in The State's e-Procurement System before the "**Bid Opening Date**" indicated for the "**Solicitation No.**" State will not consider a proposal submitted by any other method other than The State's e-Procurement System, and it will be deemed void upon



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submission. **By A.A.C. R2-7-C307, State will not consider later offers.** State will give no extension or grace period for delays or incomplete proposals caused by internet connectivity problems, file uploading difficulties, or misunderstanding of the requirements or procedures for online submission in The State's e-Procurement System. If your proposal is not submitted correctly, completely, and in conformance to these Instructions herein, then Procurement Officer may determine it Not Susceptible for Award.

NOTE: Using the State's e-Procurement System requires a certain level of technical competency; select your staff to submit proposals and handle other Solicitation general matters in The State's e-Procurement System carefully, since the State's e-Procurement System Help Desk cannot do any of the required actions for you.

4.5 Solicitation Amendments

Acknowledge each Solicitation Amendment in The State's e-Procurement System. By A.A.C. R2-7-C303(C), you must acknowledge every Solicitation Amendment issued as of the due date and time for an Offer to be Responsive. To be Responsive you must submit or re-submit your offer. If you have submitted your proposal early, you must be alert for subsequent Solicitation Amendments if one is issued after your submission but before Bid/Offer due date and time, then the Procurement Officer may determine the Offer to be Not Responsive if you have not acknowledged it.

4.6 Amending or Withdrawing

You cannot amend or withdraw a submitted proposal after the Bid/Offer due date and time unless expressly permitted under applicable law.

4.7 Confidential Information

If you believe that a portion of your Offer (or a protest or other correspondence) contains a trade secret or other manner of your proprietary information, you must:

- 4.7.1 indicate on Attachment 5-A [Designation of Confidential Information] that your proposal contains such claimed confidential information; and
- 4.7.2 designate clearly throughout the Offer each instance of that trade secret or other proprietary information in the other portions of your proposal using the term "confidential."

Simply indicating that the proposal contains confidential information is not sufficient to claim the protections under A.A.C. R2-7-C317 – Attachment 5-A must be accompanied by a **detailed explanation** as to why **each item or category of items** in the proposal should be designated confidential information.

Submit Confidential Information/Documentation as a Supplement(s) to Section 5-A. DO NOT incorporate information you are requesting to be determined as Confidential in any other section of your response. If the Confidential information is to be responsive to another Section/Question, simply provide a statement providing the Section 5-A Supplement Title to be reviewed by the Evaluators.

Procurement Officer shall review your claim of confidentiality and provide a written determination; until a written determination has been made, Procurement Officer shall not disclose the claimed information to anyone who does not have a legitimate State interest. If Procurement Officer denies the claim of confidentiality, you may appeal the determination to the State Procurement Administrator within the time specified in the determination.

NOTE: Contract terms and conditions, pricing, and information generally available to the public are not and will not be designated confidential information.

4.8 Public Record

Once submitted and opened by Procurement Officer, your Offer is a public record and must be retained by State for 6 (six) years. All offers will be available for public inspection in the State's e-Procurement System after the resulting contracts have been awarded, except for



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any portions that were determined to be confidential information.

Procurement Officer shall make the names of Persons who submitted offers available in The State's e-Procurement System promptly after the opening date.

4.9 Offeror Certification

By signing the Offer and Acceptance Form (or other official contract form specified by Procurement Officer), you will be deemed to have certified that:

- 4.9.1 you did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of your Offer; and
- 4.9.2 you do not discriminate against any employee or applicant for employment or person to whom you provide services because of race, color, religion, sex, national origin, or disability, and that you comply with an applicable federal, state, and local laws and executive orders regarding employment.

5.0 Responsibility; Responsiveness and Acceptability

5.1 Responsibility

In accordance with A.R.S. 41-2534(G), A.A.C. R27-C312 and R2-7-C316, the State shall consider the following in determining Offeror's responsibility, as well, as the responsiveness and acceptability of their proposals. The State will consider, but is not limited to, the following in determining an Offeror's responsibility as well as susceptibility to Contract Award:

- 5.1.1 Whether the Offeror has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;
- 5.1.2 Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints and/or negative references;
- 5.1.3 Whether the Offeror is legally qualified to contract with the State and the Offeror's financial, business, personnel, or other resources, including subcontractors;
- 5.1.4 Legally qualified includes if the vendor or if key personnel have been debarred, suspended or otherwise lawfully prohibited from participating in any public responsibility;
- 5.1.5 Whether the Offer was sufficient to permit evaluation by the State, in accordance with the evaluation criteria identified in this Solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform the Scope of Work, signed Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond and stability including subcontractors and any other data specifically requested in the Solicitation;
- 5.1.6 Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation and its Amendments, including the documents incorporated by reference;
- 5.1.7 Whether the Offer limits the rights of the State;
- 5.1.8 Whether the Offer includes or is subject to unreasonable conditions, to include conditions upon the State or necessary for successful Contract performance. The State shall be the sole determiner as to the reasonableness of a condition;
- 5.1.9 Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions; and,



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5.1.11 Whether the Offeror provides misleading or inaccurate information, procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

5.1.12 Whether the Offeror promptly supplied all requested information concerning its

5.2 Responsiveness and Acceptability

Proposals that do not contain information sufficient to evaluate the proposal in accordance with the factors identified in the solicitation or other necessary proposal components may not be considered responsive and/or acceptable. Necessary components include an indication of the Offeror's intent to be bound, price proposal, solicitation amendments, bond and reference data as required.

Proposal Content. The Offeror shall make a firm commitment to provide services as required and proposed.

- The material contained in the Offer shall be relevant to the service requirements stated in the solicitation.
- It is to be submitted in a sequence that reflects the scope of work section of this document.
- It is to include information relevant to the designated evaluation criteria.
- Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal.

5.3 Eligibility for Evaluation and Negotiation

If Procurement Officer determines an offeror is Not Responsible, then he or she is not permitted by A.A.C. R2-7-C314 to give further consideration to its offer or include it in any Negotiation or make Evaluation of its offer. If, however, Procurement Officer determines that an offer is Responsive (i.e., there is no applicable determination of Not Susceptible for Award), then he or she is obliged by A.A.C. R2-7-C314 to make Evaluation of it and include the offeror in the immediate round of Negotiation (if there is any Negotiation).

If Procurement Officer determines subsequently that your Revised Offer is Not Susceptible for Award by virtue of comparison to other revised offers per A.A.C. R2-7-C314(A)(3), then he or she will not include you in any further Negotiation. For clarity of intent, the foregoing means that Procurement Officer may reduce the number of offers that are "susceptible for award" with each successive round of Negotiation, since the purpose of Negotiation is to achieve best value for State.

6.0 Evaluation of Offers

6.1 Offer Validity Period

By submitting an Offer, you agree to hold it open for the validity period specified in the Solicitation Summary. If no validity period is specified therein, then you shall hold your Offer open for 180 (one hundred eighty) days. The specified or default validity period (whichever applies) re-starts upon submission of each Revised Offer or a Best and Final Offer.

6.2 Clarifications

Upon receipt and opening of proposals submitted in response to this solicitation, the State may request oral or written clarifications, including demonstrations or questions and answers, for the sole purpose of information gathering or for eliminating minor informalities or correcting nonjudgmental mistakes in proposals. Clarifications shall not otherwise afford Offerors the opportunity to alter or change their proposal.

6.3 Oral Presentations

The State may request oral presentations. If requested, the Offeror shall be available for oral presentations with no more than ten (10) business days advance notice. Participants in the



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oral presentations should include the Offeror's key persons. Such oral presentations shall not otherwise afford an Offeror the opportunity to alter or change its Offer.

6.4 Cost or Pricing Data Submit any cost or pricing data promptly that Procurement Officer requests under A.R.S. § 41-2543 per A.A.C. R2-7-702(B)(2). Procurement Officer may make the following preconditions for eligibility and award:

6.4.1 submission of appropriate cost or pricing data under A.A.C. R2-7-704;

6.4.2 determination that the submitted cost or pricing data demonstrates that pricing is fair and reasonable under A.A.C. R2-7-702(A); and,

6.4.3 determination that the data is not defective under A.A.C. R2-7-705.

6.5 Evaluation Criteria In accordance with the Arizona Procurement code A.R.S. § 41-2534, awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria listed below. The evaluation factors are listed in their relative order of importance.

	Evaluation Criteria	Max Points
6.5.1	Offeror Information Questionnaire - Attachment 2-A	300
6.5.2	Experience and Organizational Profile - Attachment 2-B	200
6.5.3	Method Proposal – Attachments 3-A & 3-B	300
6.5.4	Cost – Items Tab in APP	200

6.6 Negotiations In accordance with A.R.S. § 41-2534, after the initial receipt of proposals, the Procurement Officer may conduct discussions with those Offerors who submit proposals determined by the State to be reasonably susceptible of being selected for award.

Procurement Officer will request a best and final offer from any offerors with whom negotiation has been conducted, provided that, State may make award made without any Negotiation and therefore every offeror is forewarned to always submit its offer complete and on the most favorable terms initially, and not to assume any opportunity for Negotiation.

6.7 Financial Stability You must be able to substantiate your financial stability to State's satisfaction as a precondition of any contract award. Procurement Officer may demand documentation such as current and audited financial statements, including income and balance sheets, directly from you or may obtain reports from independent financial rating services. Not providing the evidence will be grounds for Procurement Officer determining your Offer is Not Susceptible for Award.

6.8 Consideration of Exceptions Procurement Officer may determine that your Offer is Not Susceptible for Award if it is conditioned on an exception to a material aspect of the Solicitation. Even if Procurement Officer determines that an exception is one that does not merit Not Susceptible for Award determination, he or she may down-grade your Offer in Evaluation if the exception is significant.

6.9 Consideration of Deviations Procurement Officer may down-grade your Offer in Evaluation if it contains deviations that, in his or her determination, materially reduce the value to State of affected Materials or Services across the life-cycle thereof.



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- | | |
|--|--|
| 6.10 Consideration of Prompt Payment Discount | Procurement Officer may credit any proposed prompt payment discounts for the purpose of evaluating offer prices. |
| 6.11 Consideration of Taxes | Procurement Officer shall not include Arizona Transaction Privilege Tax and other sales/use taxes for the purpose of evaluating offer prices. |
| 6.12 Consideration of Cost | Regardless of the relative order assigned to cost in the <u>Solicitation Summary</u> , cost is an essential consideration in every award State makes; State's intent is always to obtain the best pricing available and it strives to make its evaluations be a straightforward comparison of best value between the responsible and responsive proposals as far as possible to the extent permissible under the Arizona Procurement Code. |
| 6.13 Unit Price Prevails | In the case of discrepancy in your Offer between a unit price or rate and an extension of that unit price or rate, the unit price or rate will prevail. |
| 6.14 Waiver and Rejection | Notwithstanding any other provision of the Solicitation Documents, State reserves the right to waive any minor informality, reject any or all offers or portions thereof or cancel the Solicitation. |

7.0 Award of Contract

- | | |
|--|---|
| 7.1 Best Advantage to State | Under A.A.C. R2-7-C317, contracts will be awarded to the responsible offeror(s) whose offer(s) is/are determined to be most advantageous to the State based on the stated evaluation criteria. |
| 7.2 Number of Types of Awards | State may make multiple awards or to award contracts by individual line items or alternates, by group of line items or alternates, or to make an aggregate award, or regional awards, whichever is determined to be most advantageous to State. |
| 7.3 Contract Inception | Your Offer does not constitute a contract nor does it confer any right on you to the award of a contract. A contract is not created until your Offer has been accepted for State by Procurement Officer's signature on the Offer and Acceptance Form. Notice of award or of intent to award will not constitute State's acceptance of your Offer. |
| 7.4 Contract Document Consolidation | State may, at its option, consolidate the resulting contract documents after contract award. Examples of such consolidation are reorganizing Solicitation Documents and those components of the Accepted Offer not pertaining to the contract's operation and excluding any components of the Accepted Offer that were not awarded. Contract document consolidation will not, however, include or be construed to include any materially change the Solicitation or the Contract. |
| 7.5 Viewing Awarded Contracts | <p>To view awarded Contracts:</p> <ol style="list-style-type: none"> 1. Go to app.az.gov 2. Select State Contracts (Blue tab) 3. Search using "Keywords:" enter name of solicitation Label and click on "Search". A listing of Contracts with the description (name of Contract Set) will appear below. 4. To view a Contract, click on pencil next to Contract number. |

8.0 Solicitation or Award Protests

Any protest must comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder. Protests must be in writing and be filed with both Procurement Officer and the State



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Procurement Administrator. Protest of the Solicitation must be received before the Bid/Offer due date and time. Protest of a proposed award or of an award must be received within 10 (ten) days after Procurement Officer makes the procurement file available for public inspection. In either case, the protest must include:

2. the name, address, email address and telephone number of the interested party;
3. signature of the interested party or its representative;
4. identification of the purchasing agency and the solicitation or contract number;
5. a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
6. the form of relief being requested.

9.0 Comments Welcome

SEPARATELY AND APART FROM THIS SOLICITATION, The State Procurement Office periodically reviews these Instructions to Offerors and welcomes any comments the public may have.

Please submit your comments to:

State Procurement Administrator,
General Services Division
100 North Fifteenth Avenue, Suite 103
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End of Section 3-A



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Attachment 1 Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide Commercial Modular/Pre-Engineered Buildings in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	09/09/2021					
	Date	initial				
Revised Offers:	09/20/21		x	x	x	x
	date #1	initial	date #1	initial	date #1	initial
	x	x	x	x	x	x
	date #4	initial	date #5	initial	date #6	initial
Best and Final Offer:	x 09/24/21					
	Date	initial				

Modular Solutions, Ltd.

Offeror company name

PO Box 15507

Address

Phoenix, AZ 85060

City | State | ZIP

86-0812751

Federal tax identifier (EIN or SSN)

Signature of person authorized to sign Offer

Brandon Hart

Printed name and title

Mitzi Garcia

Contact name and title

mitzig@mod-sol.com

Contact Email Address

602-605-8202

Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

1. will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465;
2. has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
3. complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
4. is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by the latest date and number at the top of this form (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: CTR057393

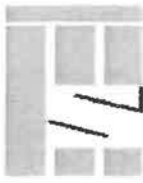
The effective date of the Contract is: 9/28/2021

Contract awarded Commercial Modular Buildings

Procurement Officer Signature

Dustin Deason

Procurement Officer Printed Name



**Modular
Solutions, Ltd.**

The Complete Modular Building Company

Pricing: Revised 09/20/2021

15% - Maximum Mark-Up %

10% - Maximum General Conditions %

A handwritten signature in black ink, appearing to be 'BA', is written to the right of the first pricing box.

Pricing: BAFO 09/24/2021

15% - Maximum Mark-Up %

10% - Maximum General Conditions %

A handwritten signature in black ink, appearing to be 'BA', is written to the right of the second pricing box.



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Section 3-B: Offer Forms (Attachments)

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Attachment 1 Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide Commercial Modular/Pre-Engineered Buildings in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:



Initial Offer:	09/09/2021	BA				
	Date	initial				
Revised Offers:	X	X	X	X	X	X
	date #1	initial	date #1	initial	date #1	initial
	X	X	X	X	X	X
	date #4	initial	date #5	initial	date #6	initial
Best and Final Offer:	X	X				
	Date	initial				



Modular Solutions, Ltd.

Offeror company name

PO Box 15507

Address

Phoenix, AZ 85060

City | State | ZIP

86-0812751

Federal tax identifier (EIN or SSN)

Signature of person authorized to sign Offer

Brandon Hart

Printed name and title

Mitzi Garcia

Contact name and title

mitzig@mod-sol.com

Contact Email Address

602-605-8202

Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

1. will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465;
2. has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
3. complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
4. is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by the latest date and number at the top of this form (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: _____ **The effective date of the Contract is:** _____ **Contract awarded** _____

Procurement Officer Signature

Procurement Officer Printed Name



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Attachment 2-A Experience and Capacity Questionnaire

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT ANSWER ALL QUESTIONS FULLY.

The Offeror shall provide a narrative response to each question that demonstrates their understanding of the Scope of Work requirements and describes your company's overall method of approach for providing the service stated in this solicitation. If there is a question that is not applicable to the services required by the Scope of Work, you may mark it N/A.

EXPERIENCE AND CAPACITY QUESTIONS:

Question 1: Company Profile

The Offeror must include a narrative description of its organization. The narrative must include the following:

- 1.1 Brief overview of business operations, with an emphasis on experience in regards to the scope of work.
- 1.2 Date established;
- 1.3 Ownership (public, partnership, subsidiary, etc.);
- 1.4 Location in which the Offeror is incorporated;
- 1.5 Address of "Main Office" (e.g. Corporate Headquarters and any satellite offices responsible for performance of proposed tasks;
- 1.6 Offeror's organizational chart relevant to the Contract, specifically identifying the key point of contact for all questions related to the submitted offer;
- 1.7 Full disclosure of any potential conflict of interest between the Offeror and any State employee who functions or has responsibilities in the review or approval of the undertaking or carrying out of the Contract;
- 1.8 A Statement of whether, in the last five (5) years, the Offeror has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details and current status;
- 1.9 A Statement of whether there are any pending Securities Exchange Commission investigations involving the Offeror, and if such are pending or in progress, an explanation providing relevant details and an attached opinion of counsel as to whether the pending investigation(s) may impair the Offeror's performance in a Contract under this RFP;
- 1.10 A Statement documenting all open or pending litigation initiated by Offeror or where Offeror is a defendant or party in any litigation that may have a material impact on Offeror's ability to deliver the contracted services;
- 1.11 A Statement documenting all open or pending litigation initiated by Offeror or where Offeror is a defendant or party in any litigation with a Public sector client;
- 1.12 Full disclosure of any Public Sector contracts terminated for cause or convenience in the past five (5) years; and,
- 1.13 Full disclosure of any criminal or civil offense.
- 1.14 Offeror shall provide evidence of any Arizona required business license to provide these services.
- 1.15 Offeror shall provide copies of any professional or industry certifications that represent the services detailed in this RFP.



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Offeror Response:

- 1.1 *Brief overview of business operations, with an emphasis on experience in regard to the scope of work.*

Established in 1996 in Phoenix, Arizona, Modular Solutions, Ltd is a DBE Native American owned company. Modular Solutions, Ltd has held a GSA contract since 2000 and worked for many federal and local agencies under this contract. With a strong history of successful completion of bonded projects and impeccable payment history Modular Solutions, Ltd has built a strong team of subcontractors across the Nation.

Modular Solutions, Ltd is a licensed manufacturer, installer, general contractor and architectural firm, and has grown substantially over years due to our out of the box problem solving skills. A vast majority of the work awarded to Modular Solutions, Ltd has been turnkey design/build projects. The key employees offer over 300 years of collective experience to share and create alternative permanent building solutions.

Capability Statement Services:

- ☐ Full Service Architectural and Engineering Firm
- ☐ General Contracting Firm
- ☐ Factory Direct Manufacturing Company
- ☐ Panelized prefabricated systems
- ☐ Modular prefabricated systems
- ☐ Pre-Engineered Steel Buildings
- ☐ "Hybrid" Construction

Qualification Statement:

- ☐ Key employees over 200 years combined experience
- ☐ Providing turnkey design-build projects since 1996
- ☐ Strong experience in federal and specialty construction markets
- ☐ Project Management team key to our successful project completion record
- ☐ CAD, BIM, drawing & drafting software for design-build projects
- ☐ Strong history of repeat and referrals



- 1.2 *Date established;* Established in 1996 in Phoenix, Arizona
- 1.3 *Ownership (public, partnership, subsidiary, etc.);* S Corporation
- 1.4 *Location in which the Offeror is incorporated;* Arizona
- 1.5 *Address of "Main Office" (e.g. Corporate Headquarters and any satellite offices responsible for performance of proposed tasks;* 5439 South 43rd Avenue, Phoenix AZ 85041

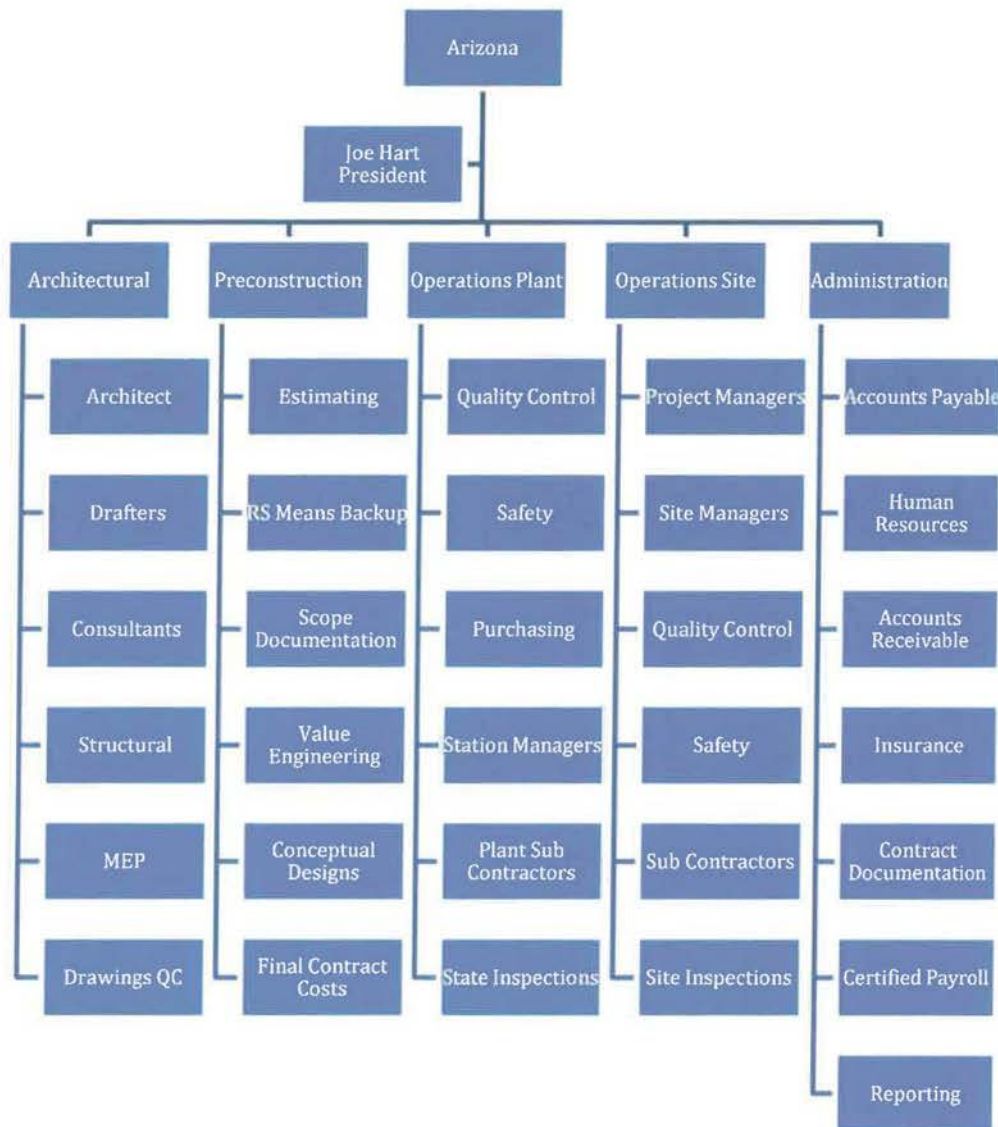


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- 1.6 Offeror's organizational chart relevant to the Contract, specifically identifying the key point of contact for all questions related to the submitted offer;



- 1.7 Full disclosure of any potential conflict of interest between the Offeror and any State employee who functions or has responsibilities in the review or approval of the undertaking or carrying out of the Contract; **There are NO potential conflicts with any State employee and Modular Solutions, Ltd.**
- 1.8 A Statement of whether, in the last five (5) years, the Offeror has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details and current status; **Modular Solutions, Ltd has NOT filed, or had filed against it, any bankruptcy or insolvency proceedings.**
- 1.9 A Statement of whether there are any pending Securities Exchange Commission investigations



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*involving the Offeror, and if such are pending or in progress, an explanation providing relevant details and an attached opinion of counsel as to whether the pending investigation(s) may impair the Offeror's performance in a Contract under this RFP; Modular Solutions, Ltd. has **NO Securities Exchange Commission investigations***

- 1.10 *A Statement documenting all open or pending litigation initiated by Offeror or where Offeror is a defendant or party in any litigation that may have a material impact on Offeror's ability to deliver the contracted services; Modular Solutions, Ltd. has **NO pending litigation.***
- 1.11 *A Statement documenting all open or pending litigation initiated by Offeror or where Offeror is a defendant or party in any litigation with a Public sector client; Modular Solutions, Ltd. has **NO pending litigation***
- 1.12 *Full disclosure of any Public Sector contracts terminated for cause or convenience in the past five (5) years; and, Modular Solutions, Ltd. has **NOT** had any contracts terminated.*
- 1.13 *Full disclosure of any criminal or civil offense. Modular Solutions, Ltd. have **NO** criminal or civil offenses.*
- 1.14 *Offeror shall provide evidence of any Arizona required business license to provide these services.*

LICENSE TYPE	LICENSE #	LICENSE TYPE	LICENSE#
AZ, B-1 GENERAL CONTRACTOR	ROC184932	AZ, B-RESIDENTIAL	ROC272406
AZ, MOD MANUFACTURER	M9A-8111	AZ, MOD DEALER	D10-6698
AZ, MOBILE HOME	D8-8297	AZ, ARCHITECTURAL FIRM	15990-0
AZ, MASTER INSTALLER I-10G	8905	AZ, ELECTRICAL ENGINEER	68230

- 1.15 *Offeror shall provide copies of any professional or industry certifications that represent the services detailed in this RFP. **NCARB CERTIFICATION, ELECTRICAL PE***

Question 2: Company Experience

- A. What market(s) are your current clients primarily in?
- B. What experience do you have serving clients in Business Markets within the State of Arizona?
- C. What is the range in size of your current clients?
- D. Provide two (2) examples that exhibit your experience with different types and sizes of related goods/services for clients?
- E. How long have you provided goods/services to your longest tenured client?
- F. Why did your last three former clients cancel their contracts?
- G. With what relevant trade and/or professional associations are you involved? How does this participation give you an advantage over your competition?

Offeror Response:

- A. *What market(s) are your current clients primarily in? **Medical, educational, residential, warehouse, law enforcement, judicial, Native American, Administration, public safety***
- B. *What experience do you have serving clients in Business Markets within the State of Arizona? **We have serviced the educational, Native American, federal, penal institutions and private industry throughout the State of Arizona since 1996.***



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- C. *What is the range in size of your current clients? Range of current of clients includes individual IRC homes up to Federal/National BIA commercial modular building and pre-engineered building projects.*
- D. *Provide two (2) examples that exhibit your experience with different types and sizes of related goods/services for clients?*

Drake Cement- Paulden, AZ

When Drake Cement needed a new facility at their busy plant their primary focus was project safety. Modular Solutions, Ltd was the obvious choice for this project. Our Team Solutions provided only MSHA certified team members that understand the eccentricities of working in an active plant with trucks, pedestrians, machinery and multiple workplace hazards.



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For more information on emergency space solutions contact our team:

Modular Solutions, Ltd

P O Box 15507-Phoenix, AZ 85060-5507

(800) 441-8577 x 1

Information@mod-sol.com

www.modularsolutionsltd.com

www.modularsolutions.blogspot.com (blog articles)





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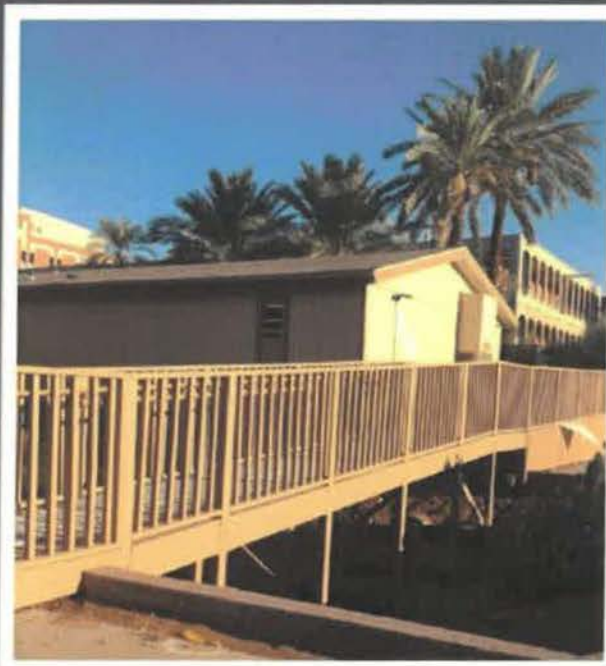
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ASU Child Care Center

Daycare Solutions:

Modular Solutions, Ltd provided a temporary daycare center facility for ASU on their crowded Tempe campus, creatively Meeting the schedule, and the logistics of the project.



**Modular
Solutions, Ltd.**
The Complete Modular Building Company





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- E. *How long have you provided goods/services to your longest tenured client?* **We have served GSA for 20+ years.**
- F. *Why did your last three former clients cancel their contracts?* **We have NOT had clients cancel contracts.**
- G. *With what relevant trade and/or professional associations are you involved? How does this participation give you an advantage over your competition?* **Manufactured Housing Industry Association:** Serves the residential community builders. As a member we learn about new trends and maintain important relationships with vendors, suppliers, and other manufacturers.
Modular Building Institute: MBI is a nationwide organization that promotes the commercial modular building industry. As a member we sign a code of ethics agreement and utilize the "seal" program which promotes quality.
Better Business Bureau: As a member you are rated each year on customer service and delivering on your promises. Modular Solutions has been a A+ rated member for years.

Question 3: Financial/Accounting Information

Offeror must provide evidence of financial stability and capability to fund all costs associated with providing the services throughout the term of the Contract. The latest two (2) years audited annual financial statements including Total Revenue, Net Income, and Total Assets must be submitted with the Offeror's proposal. If audited financial data is unavailable, explain in full the reason, and provide the latest non-audited financial information to include Balance Sheet, Income Statement, as well as Statements of Cash flows and Change in Financial Position. Include information to attest to the accuracy of the information provided.

Offeror shall provide information regarding any irregularities that were discovered in any accounts maintained by the Offeror on behalf of others. Describe the circumstances and disposition of the irregularities.

Offeror Response:

[Please see attached Financial/Accounting Information](#)

Question 4: Proposed Project Members and Organization

Utilize Attachment 3-B to identify Key Personnel to be utilized to perform services within a resultant contract.

In addition, also state the Members related experience with large local, state or federal government agencies.

Offeror Response:

[Please see attachment 3-B](#)

Question 5: Submit copies of all applicable certificates and licenses that support Offeror's ability to provide the related goods/services being proposed.

Offeror Response:

[Please see attached certificates and licenses.](#)



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EXPERIENCE REFERENCES:

The State intends to conduct reference checks for account referenced provided by Offerors. It may, at its sole discretion contact additional clients not presented as references.

Offerors shall provide at least three (3) client references for assignments that replicate or mirror the requirements of this RFP

All assignments shall be for assignments received and completed within the last five (5) years.

1	Client Company/Address	Contact	Begin Date	End Date
	CPMD – Window Rock, AZ	Andy Thomas	2015	Current
	Phone Number	Email Address		
	928-871-6739	Andy thomas@nndcd.org		
Event Scope and deliverables, include number of resources engaged in project, timeline of project (major milestones)				
Design Build for various projects including offices, courthouse, and community centers. Timelines averaged 4-6 months from NTP/Contract.				
List job positions provided and technologies utilized to supplement services.				
Architecture, engineering, design, manufacturing, permitting and site infrastructure.				

2	Client Company/Address	Contact	Begin Date	End Date
	Arizona Preparatory Academy	Kurt Huzar	2013	Current
Phone Number		Email Address		
602-568-5565		huzarcpa@aol.com		
Event Scope and deliverables, include number of resources engaged in project, timeline of project (major milestones)				
Design Build, Manufacturing, Permitting and site infrastructure				
List job positions provided and technologies utilized to supplement services.				
Architecture, Manufacturing and General Contracting				



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3	Client Company/Address	Contact	Begin Date	End Date
	Department of Interior	Karl Chiwiwi	x	Current
	Phone Number	Email Address		
	505-563-5150	Karl.chiwiwi@bia.gov		
Event Scope and deliverables, include number of resources engaged in project, timeline of project(major milestones) Turn-Key Design Build, Manufacturing, Site Infrastructure List job positions provided and technologies utilized to supplement services. Architecture, Manufacturing and General Contracting				

4	Client Company/Address	Contact	Begin Date	End Date
	x	x	x	x
	Phone Number	Email Address		
	x	x		
Project Scope and deliverables, include number of resources engaged in project, timeline of project(major milestones) x List job positions provided and technologies utilized to supplement services. x				

End of Attachment 2-A



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Attachment 2-B Organization Profile

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT ANSWER ALL QUESTIONS FULLY.

ORGANIZATION PROFILE

Firm Name	Modular Solutions, Ltd.			Year established	1996
Principal address (street, city, state)	5439 South 43 rd Avenue Phoenix, AZ 85041				
Entity type:	Corporation	Structure:	S		
Branch or Division:	Main	Parent:	None		
Years of experience providing goods similar in type and quantity as required by this Solicitation.					25 Years
Years of experience performing services similar in size and scope as required by this Solicitation.					25 Years
Years the organization has conducted business in Arizona.					25 Years
Contract Representatives to Contact					
	Name	Title	Telephone Number	E-Mail Address	
1.	Joe Hart	President	602-605-8210	jhart@mod-sol.com	
2.	Mitzi Garcia	Pre-Construction	602-605-8202	mitzig@mod-sol.com	
3.	Lorenzo Chavez	Project Management	602-605-8203	lchavez@mod-sol.com	
Licenses/Certifications					
	Description	Issuer	Number	Expiration	
4.	AZ, B-1 General Contractor	State of Arizona	ROC184932	05-31-2023	
5.	AZ, B-Residential	State of Arizona	ROC272406	04-30-2023	
6.	AZ, Modular Manufacturer	ADOH	M9A-8111	06-29-2022	
7.	AZ, Modular Dealer	ADOH	D10-6698	01-30-2022	
8.	AZ, Modular Master Installer	ADOH	I-10G 8905	11-18-2021	
9.	AZ, Architectural Firm	State of Arizona	15990-0	08-31-2022	
10.	AZ, Electrical Engineer	State of Arizona	68230	No expiration	
Financial Information (attach financial statements with income/balance sheets as Supplements)					
	Rating/Issuer	Score/Rank		Date	
11.	Please see attached Financial Statements			2019	
12.	Please see attached Financial Statements			2020	
13.					



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Capacity				
	Location	Work Performed	Number Staff	Capacity
14.	5439 South 43 rd Avenue Phx, AZ	Twelve Million Annual	50	One Million Monthly
15.				
16.				
17.				
18.				

ATTACHMENT 2-B SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
19	NONE	x	x	x

End of Attachment 2-B



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Attachment 3-A
Method Proposal (Method of Approach)

The Offeror shall provide a narrative response to each question that demonstrates their understanding of the Scope of Work requirements and describes your company's overall method of approach for providing the service stated in this solicitation. If there is a question that is not applicable to the services required by the Scope of Work, you may mark it N/A.

Question 1: DISCUSS WHAT STRATEGIES THE SUBMITTER WILL UTILIZE TO KEEP THIS PROJECT ON SCHEDULE.

Offeror Response:

- Scheduling regular meetings between agency and multiple user groups, facility managers, construction subcontractors, and the entire design build team will be used to share information and develop goals to guide the delivery process. By drawing out answers from those who will use and operate the facilities in the building, we will build consensus and resolve internal conflicts.
- Early identification of issues, assessment, recommendations, and team focused solutions on potential areas of concern
- Frequent, open communication and interaction with all project participants
- Written documentation of all meetings and important telephone conversations
- Provide extensive constructability and document review to ensure clear intent and purpose
- Our subcontracting processes are designed to ensure that every subcontractor has a complete understanding of their scope, expectations and time frame for delivery before they start work



Modular Solutions, Ltd has implemented the use of BUILDERTREND as a project communication tool to assist in providing immediate up to date data available across the entire project team. Builder Trend allows clients to see daily reports, daily work in progress, tasked items, schedule look ahead, as well as communicate with all members of our team. Since implementing this program in 2020 we have had glowing positive feedback from all our clients and administration. The software is implemented throughout our organization from administration in the office to superintendents in the field. As a web-based platform, Builder Trend is made easily accessible from desktops to cell phones for immediate and up to date information.



Modular Solutions, Ltd. utilizes web-based meeting resources such as GoToMeeting and TEAMS to assist in maximizing client's valuable time. The utilization of this program allows the convenience of holding meeting at each team members locations. This results in greater participation and communication through the life of the project. GoToMeeting allows the viewing and editing of drawings, site surveys, color selection and provides a platform for weekly project updates.

Question 2: DISCUSS STRATEGIES THE SUBMITTER WILL IMPLEMENT TO ENSURE THE PROJECT IS KEPT ON BUDGET.

Offeror Response:

Our team's processes are intended to save the Owner time, money, and improve quality, not simply reduce the scope. By providing thoroughly researched options we offer the best combination of function, efficiency and cost while maintaining high quality and design integrity and intent. Processes for achieving the best overall value for the project include the following:

- Utilize the knowledge and input from all team members to suggest alternatives for materials, methods and means
- Bring early selected, prequalified key subcontractors on board to offer options and make recommendations



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•Present proposals in a detailed comparative matrix showing options, potential savings, impacted trades and possible design, manpower and scheduling modifications.

•Make collaborative decisions

Question 3: DISCUSS CHALLENGES THAT MAY BE ENCOUNTERED WITH THE PROJECT AND HOW THEY MAY BE OVERCOME.

Offeror Response:

Modular Solutions is committed to working in full partnership with the client within the team environment. Modular Solutions is very proud to never have had a claim on any project in over 25 years in business. We firmly believe that disputes can be avoided or reduced by promoting an inclusive and collaborative team environment beginning at the preconstruction level and throughout the project.

Over the years we have learned that conflict is typically based upon unmet expectations. The successful completion of some of our complex public projects are a testament to our ability to work with numerous agencies and user groups, as well as individuals, all of whom bring to the table different ideas and goals regarding programming, code compliance, maintenance, constructability, and budget control.

Question 4: DESCRIBE THE SUBMITTER'S ATTRIBUTES WHICH MAKE THE SUBMITTER BEST-SUITED FOR THIS PROJECT.

Offeror Response:

Quality Assurance

Modular Solutions, Ltd ability to complete work in a timely and cost-effective manner is directly related to our ability to develop accurate planning, design and construction documents. Modular Solutions stringent quality assurance and quality control practices ensure an exceptional level of accuracy in all project deliverables. Our team's quality assurance procedures span all project phases – from pre-design through post-construction. Both the construction and architectural Project Managers work closely with clients to prepare a quality assurance plan tailored to each project. Specific quality control measures are developed for each project phase.

•**Pre-Design-** The pre-design or planning phase of a project establishes a foundation for future design and construction activities. Our proactive approach minimizes the eruption of future problems by planning for project contingencies and unforeseen conditions. QA/QC reviews occur at regular intervals and are part of the project's schedule of activities. Programmatic workshops are incorporated into the process for owner and team members to provide critical input. MPE subs and key vendors are brought into the process during the pre-design stage for additional value engineering and critical input.

•**Design-** Design verification ensures the feasibility of design computations prior to their implementation. Deliverables are evaluated using the Design Review Record (DRR) process, including a formal review by an external party. All review comments are carefully documented and tracked to ensure that they are subject to the same review procedures as the original design. The process is supplemented by constructability reviews by Modular Solutions. We utilize the experience and knowledge of our field team and key subcontractors to provide advice, perspective and solutions based on the point of view of those who will construct the project. Components of a thorough constructability review include checking for **completeness, clarity and consistency**; looking for missing information that would be necessary to perform the proposed renovations; and verifying dimensions and cross checking between the various disciplines. We will provide a list of comments and a marked set of plans and specifications for the team to review and will facilitate team solutions to any identified issues.

Production- Modular Solutions, Ltd maintains a Quality Control Manual on file with the State of Arizona for modular design and construction practices. The production facility has a quality control manager that cross checks the production drawings at every stage. We maintain an open-door policy for the Owners' Representative and other team members to stop in at any stage of production. Digital weekly progress photos are taken for the owner, and the team to inspect and have in the project file.

Construction- Modular Solutions takes a proactive approach when it comes to quality control and assurance. We are known for completing our jobs on time and with minimal punch lists. Our philosophy is: **"Get it right the first time."** Construction activities are monitored to ensure that the structures, systems and materials reflect the final plans. We only use prequalified, **high performing subcontractors who we know provide the best quality.** When applicable



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mock-ups and samples will be used to identify expected quality standards. Utilizing online project management the team can effectively and efficiently review and confer on submittals, RFI's, test reports, inspections and any other quality related documentation.

Question 5: DOES THE SUBMITTER HAVE A SAFETY PROGRAM TO ADDRESS THE TYPES OF HAZARDS THE SUBMITTER MAY ENCOUNTER IN A RESULTANT CONTRACT?

Offeror Response:

Safety is a "core" value at Modular Solutions, Safety planning begins well before the start of construction. Superintendent will work with our safety management team, to develop a site-specific safety plan along-side key client security and safety personnel. This safety plan will take incorporate any special requirements and/or conditions particular to the project. In addition to our Site-Specific Safety Plan, Modular Solutions will require that all major subcontractors provide us with their safety plans. During construction, our Superintendent will monitor safety daily by conducting a safety inspection prior to the start of work. Safety meetings will be held weekly, and all project personnel must attend.

Question 6: WHAT FRANCHISES OR PARTNERSHIPS DOES YOUR COMPANY UTILIZE TO COMPLETE THE WORK? E.G. DESIGN, MANUFACTURING, LABOR. PLEASE LIST ANY TRADES YOUR COMPANY WILL SELF PERFORM.

Offeror Response:

Modular Solutions Ltd, will **self-perform** Estimating, Architecture, Manufacturing, General Contracting, Project management and site supervision.

Modular Solutions Ltd, may work with third party engineers to benefit a particular building use. We will also work with pre-qualified subcontractors for site infrastructure related items. Subcontractor Selection: An integral part of the project management process is subcontractor selection. It is critical that a subcontractor is qualified to perform the magnitude of work within the time frame determined by the schedule. Modular Solutions maintains a large database of pre-qualified local subcontractors and vendors.

Prior to being considered as a subcontractor for Modular Solutions, all suppliers are required to complete a Pre-Qualification Submittal Form. All information on the pre-qualification form is verified before that company is added to our database. ***Modular Solutions continually requalifies all subcontractors to verify capabilities, references, insurance coverage, manpower and financial stability.***

End of Attachment 3-A

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Attachment 3-B
Key Personnel Proposal

Answer all questions thoroughly in the spaces provided. **Complete this form in full for each one of the key personnel proposed to be involved in carrying out the Work.** Insert or attach a separate resume if desired, but any attached resumes are supplemental to this form and do not substitute for this form. If there are more than three (3) Key Personnel, please utilize the same form for each additional Personnel.

1	Name:	John Cooper	How long with company?	12 Years
	Current position in company:	Architect	How long in position?	12 Years
	Position for the Services:	Architect	How much of time will be dedicated to the Services?	100%
	What primary functions will be assigned?	Pre-construction design & development, space development, GMP and critical path, oversight of engineering and code compliance		
	Describe person's experience in performing services like those that are to be assigned:	NCARDB Architect and Project Manager professional with over 35 years of experience. John work experience includes, but not limited to, residential, hospitality, clinical, industrial and commercial for both private and public sectors		
	List person's job-related training and education:	Multi-State Architect License, NCARB License, Professor (John provide leadership to our engineering team), design-build developer, CAD/BIM certified, City of Phoenix self-certified program.		
	Resume:	Resume John Cooper - Architect		

QUALIFICATIONS



John Cooper is an N.C.A.R.B Architect and Project Manager Professional with over 35 years of commercial construction management experience. He has worked with large and small architectural firms on commercial, residential, hospitality, clinical, industrial and educational projects for public and private sector clients. His duties have included Architect of record, Design review, Owners' Representative, Project Manager, and Developer.

As Senior Design Architect Manager & Resident Architect, his responsibilities include: pre-construction design development, strategic space development, GMP and critical path development, oversight of all engineering sub consultants, code compliance review, AHJ submittals, critical path review, and project closeout- final "as-built" drawings. He provides leadership to the CAD and BIM team to ensure quality control, and clear scope.

John has commercial experience in projects in excess of \$21,000,000 in every aspect of the design/build process.

EDUCATION/TRAINING

Arizona Architectural License# 7255
 New Mexico Architectural License# 005063
 Utah Architectural License# 8093815-0301
 N.C.A.R.B License # 5730-7
 Architectural Degree University of Cincinnati
 Adjunct professor Rio Salado Community College
 Design/Build Developer with "B" license
 CAD & BIM certified training
 City of Phoenix Self Certification Program
 Certified State of AZ renovation/recertification program

POSITIONS HELD IN PAST

Modular Solutions, Ltd, 2009-Current
 Architect of Record, N.C.A.R.B.
 Summit Builders 2008-2009
 Construction Administrator
 DLR Group 2005-2008
 Gould Evans 2000-2005

RELEVANT EXPERIENCE

*Bug-O-Nay-Ge-Shig

Design build entire high school campus including geothermal energy, with tilt up gymnasium, and 46,000 square ft total modular/prefabricated construction

Value: \$15,000,000

*Hopi Head Start

DB modular headstart. Including site work, infrastructure, parking, classrooms, and parent rooms.

Value: \$900,000

*BIA- IDIQ Contract

Establish scope with estimating team, sitework design, portable building design, and utility development

Value: \$11,000,000

*Santa Rosa Ranch

Led architectural team in tandem with sub consultants for design-build construction emergency replacement of (4) classroom buildings and a cafeteria facility.

Value \$2,000,000

*Arizona Preparatory Academy (Northstar)

John was the architect of record for the modular building design and installation on this 10,000 square ft high school project. He designed all aspects of the modular building construction & installation.

Value \$900,000

*Buckeye Union High School

John facilitated civil drawings and local permits. The project consisted of (4) temporary lease buildings at two high school sites. The project was turnkey to include delivery, installation, site work, and permits.

Value \$400,000.00



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2	Name:	Joshua Hart	How long with company?	9 Years
	Current position in company:	Engineering Manager	How long in position?	3 Years
	Position for the Services:	Electrical Engineer	How much of time will be dedicated to the Services?	100%
	What primary functions will be assigned?	Plan review and estimating assistance. Electrical Engineering and coordination of 3-party engineers		
	Describe person's experience in performing services like those that are to be assigned:	Josh Hart is an Electrical Engineer with over 6 years of electrical design experience and grew up in the construction and modular industry. Josh's duties have included project management & coordinator for several variations of projects with design specializing in health care facilities, feasibility studies, conceptual design, system selection, and project design.		
	List person's job-related training and education:	For the past 5 years Josh's project experience includes healthcare facilities, modular buildings, mission critical facilities, generator replacements, lab renovation, and health care/commercial tenant improvements. Associate in Science – Phoenix College Bachelor of Science in Engineering – Electrical Engineering – Arizona State University Professional Electrical Engineer - AZ Institute of Electrical and Electronics Engineer (IEEE) IEEE Power & Energy Society Toastmasters International – Club VP of Public Relations		
	Resume:	Resume Josh Hart - Engineering		



QUALIFICATIONS

Josh Hart is an Electrical Engineer with practical field experience and project management. Joshua grew up in the construction and modular industry. Josh's duties have included project design, project management, sub consultant oversight, project administration, and critical path construction management.

For the past 5 years Josh's project experience includes healthcare facilities, modular buildings, mission critical facilities, generator replacements, lab renovation, and health care/commercial tenant improvements.

POSITIONS HELD

Modular Solutions, Ltd— Phoenix, AZ
2006 to 2012:

- Field worker
- Supervisor
- Administrative assistant
- Marketing

Texas Energy Engineers, dba ccrd- Phoenix, AZ
2013 to 2104, Electrical Designer/Engineer in Training

WSP USA – Phoenix, AZ
2015 to 2018, Electrical Engineer

Modular Solution, Ltd- Phoenix,
2018 to Present, Electrical Engineer

Education and Professional Affiliations

Associate in Science – Phoenix College
Bachelor of Science in Engineering – Electrical Engineering
– Arizona State University
Professional Electrical Engineer – AZ & NM Registration
Institute of Electrical and Electronics Engineer (IEEE)
IEEE Power & Energy Society
Toastmasters International – Club VP of Public Relations

RELEVANT EXPERIENCE

*Freeport McMoran Mining

Design-build custom modular locker room facilities.
Included mens/womens with lockers & showers.
Value: \$550,000

*Gerald Champion Staff & Conference Center

Design-build project: (2) modular buildings consisting of 7,000 square ft each with large open spans in the community rooms and very extensive electrical and communication designs.
Value: \$2,500,000

*Fellowship Square Assisted Living Facility

Fellowship Square needed a custom guard shack for the entry way. This project include ADA access, brick/wood siding, and large access windows.
Value: \$40,000

*Village of Tewa

3,000 Sq. Ft. custom modular building for the community. Open meeting space and restrooms and offices.
Value: \$500,000

*Pima Schools

Used modular classroom building including installation and site work. By having a 28' x 67' in inventory client was able to occupy quicker and save money.
Value: \$200,000

*Bug-O-Nay-Ge-Shig High School

Design-build 46,000 Sq. Ft. high school campus including tilt up activity center. Project included all site work, infrastructure, and the tilt-up and modular construction work.
Value: \$15,000,000

*Tohono O'odham Nation DHHS

Design-build 6,600 Sq. Ft. office/administration center for the department of human services. Included design, construction of modular building, and site work.
Value: \$800,000

COMMUNITY INVOLVEMENT

American Lung Association



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3	Name:	Brandon Hart	How long with company?	17 Years
	Current position in company:	General Manager	How long in position?	10 Years
	Position for the Services:	General Manager	How much of time will be dedicated to the Services?	100%
	What primary functions will be assigned?	As General Manager his responsibilities include Oversight of quality, master schedules, safety, and team management. Brandon works closely with the project managers, site managers, sub-contractors, and has great interpersonal skills to keep the communication open so our schedules and budget are always met.		
	Describe person's experience in performing services like those that are to be assigned:	Brandon Hart is recognized as a highly specialized professional from the manufacturing industry. Brandon has been in the construction and modular industry his entire life, and knew he wanted to be a leader in this company early on. Brandon attended ASU and had a degree in construction management.		
	List person's job-related training and education:	Brandon has been with the company for 12 years and has worked on crews, in the plant, quality control, safety manager, site manager, project manager, and now operations manager. His well-rounded experience keeps the team motivated and focused to excel at customer service. ASU- Degree in Construction Management First Aid & CPR OSHA 30 Design/Build ACE Training Microsoft Project, Outlook, Excel, Word RS Means Estimating BIM & CAD Drafting technology		
	Resume:	Resume Brandon Hart - GM		

End of Attachment 3-B

Brandon Hart, Operations Manager



QUALIFICATIONS

Brandon Hart is recognized as a highly specialized professional from the manufacturing industry. Brandon has been in the construction and modular industry his entire life, and knew he wanted to be a leader in this company early on. Brandon attended ASU and had a degree in construction management.

As Operations Manager his responsibilities include: Oversight of quality, master schedules, safety, and team management. Brandon works closely with the project managers, site managers, sub contractors, and has great interpersonal skills to keep the communication open so our schedules and budget are always met.

Brandon has been with the company since 2003 and has worked on crews, in the plant, quality control, safety manager, site manager, project manager, and now operations manager. His well rounded experience keeps the team motivated and focused to excel at customer service.

EDUCATION/TRAINING

ASU- Degree in Construction Management
First Aid & CPR
OSHA 30
Design/Build ACE Training
Microsoft Project, Outlook, Excel, Word
RS Means Estimating
BIM & CAD Drafting technology

POSITIONS HELD IN PAST 10 YEARS

Modular Solutions, Ltd, 2003-Current

Field worker
Production Line Manager
Quality Control Manager
Safety Manager
Site Manager
Project Manager



RELEVANT EXPERIENCE

*Veterans Administration Modular Behavioral Health Facility

30,000 SF design/build two story, new construction, utilized for clinical space, administration & employee training **Value:** \$4,000,000

*VA Prescott, Modular Therapy

7,200 SF Design Build renovation/remodel for sustainable use of existing building shell converted to physical therapy, administration, library, reference and study areas. **Value:** \$1,000,000

*Imagine Charter School

15,000 SF Design Build consisting of nine classrooms, administration, multi-purpose, restrooms and lounge **Value:** \$1,000,000

*Buckeye Elementary School (GMP)

Remodel, retrofit, site work, mechanical, retention basin, power supply design **Value:** \$2,100,000

*Hopi Head Start

5,000 SF Design Build modular construction for classrooms, commercial kitchen, offices and teaching rooms **Value:** \$500,000

*BIA-IDIQ Modular Classroom Contract

IDIQ contract for modular classroom building throughout the United States to meet required codes **Value:** \$10,000,000

*City of Lake Havasu

5,000 SF Design Build modular construction for administration, staff training and customer billing. Included infrastructure and utility development. **Value:** \$750,000

*Bug-O-Nay-Ge-Shig High School

44,000 Square Ft. High School in Bena, MN using design-build construction. Included all site work with tilt up gym, commercial kitchen, administrative support and classrooms. **Value:** \$15,000,000



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General Services Division

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Attachment 3-C

Reserved

End of Attachment 3-C



Request for Proposal

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Attachment 3-D Boycott of Israel Disclosure

Please note that if any of the following apply to this Solicitation, Contract, or Contractor, then the Offeror shall select the "Exempt Solicitation, Contract, or Contractor" option below:

- The Solicitation or Contract has an estimated value of less than \$100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. §35-393.01, public entities are prohibited from entering into contracts "unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel."

Under A.R.S. §35-393:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) Based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
- ...
5. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

The certification below does not include boycotts prohibited by 50 United States Code Section 4842 or a regulation issued pursuant to that section. See A.R.S. §35-393.03.

In compliance with A.R.S. §§35-393 *et seq.*, all offerors must select one of the following:

- ☒ The Company submitting this Offer does not participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. §§35-393 *et seq.* I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.
- ☐ The Company submitting this Offer does participate in a boycott of Israel as described in A.R.S. §§35-393 *et seq.*



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☐ **Exempt Solicitation, Contract, or Contractor.**

Indicate which of the following statements applies to this Contract:

- ☐ Solicitation or Contract has an estimated value of less than \$100,000;
- ☐ Contractor is a sole proprietorship;
- ☐ Contractor has fewer than ten (10) employees; and/or
- ☐ Contractor is a non-profit organization.

Modular Solutions, Ltd.

5439 South 43rd Avenue

Phoenix

AZ

85041

Signature of Person Authorized to Sign

Brandon Hart

General Manager

End of Attachment 3-D

**Request for Proposal**

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Attachment 4

Pricing Sheet

IMPORTANT**Submitter must enter in the APP Items Tab:**

- **Maximum Mark-Up**
- **Maximum General Conditions Percentage**

Please indicate which portion of the contract your company is submitting on. (Select one or both)

- ☒ Modular
- ☒ Pre-Engineering Buildings

End of Attachment 4

Parent Item	Code	Field type	Label	Qty	Order	Unit	Deliv. date	Unit price	Amount	Deliv. date_1
	I1_1	Required Item	Maximum Mark-Up Percentage					30		
	I1_2	Required Item	Maximum General Conditions Percentage					30		

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

**Give Form to the
requester. Do not
send to the IRS.**

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

Modular Solutions, Ltd

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

- ☐ Individual/sole proprietor or single-member LLC
 ☐ C Corporation
 ☒ S Corporation
 ☐ Partnership
 ☐ Trust/estate
- ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►
- Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.
- ☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

P O Box 15507

6 City, state, and ZIP code

Phoenix, AZ 85060

Requester's name and address (optional)

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-			-				
--	--	--	---	--	--	---	--	--	--	--

or

Employer identification number

8	6	-	0	8	1	2	7	5	1
---	---	---	---	---	---	---	---	---	---

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign
Here**

Signature of
U.S. person ►

Date ► 05/17/21

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



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Attachment 5-A

Confidential Information Designation

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract.

Recognizing there may be materials included in a solicitation response that are proprietary or a trade secret, a process is set out in A.A.C. R2-7-103 (copy attached) that will allow qualifying materials to be designated as confidential and excluded from disclosure. For purposes of this process the definition of "trade secret" will be the same as that set out in A.A.C. R2-7-101(52).

Complete this form return it with your Offer **along with the appropriate supporting information** to assist State in making its determination as to whether any of the materials submitted as part of your Offer should be designated confidential because the material is proprietary or a trade secret and therefore not subject to disclosure.

STATE WILL NOT CONSIDER ANY MATERIAL IN YOUR OFFER "CONFIDENTIAL" UNLESS DESIGNATED ON THIS FORM.

Check one of the following – If neither is checked, State will assume that as equivalent to "DOES NOT":



This response DOES NOT contain proprietary or trade secret information. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.



This response DOES contain trade secret information because it contains information that:

1. Is a formula, pattern, compilation, program, device, method, technique or process, AND
2. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; AND
3. Is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy.

NOTE: Failure to attach an explanation may result in a determination that the information does not meet the statutory trade secret definition. All information that does not meet the definition of trade secret as defined by A.A.C. R2-7-101(52) will become public in accordance with A.A.C. R2-7-C317. State may make its own determination on materials in accordance with A.A.C. R2-7-103.

If State agrees with Offeror's designation of trade secret or confidentiality and the determination is challenged, the undersigned hereby agrees to cooperate and support the defense of the determination with all interested parties, including legal counsel or other necessary assistance.

By submitting this response, Offeror agrees that the entire Offer, including confidential, trade secret and proprietary information may be shared with an evaluation committee and technical advisors during the evaluation process. Offeror agrees to indemnify and hold State, its agents and employees, harmless from any claims or causes of action relating to State's withholding of information based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by State in defending such an action.

Modular Solutions, Ltd.

Offeror Company Name

5439 South 43rd Avenue

Address

Phoenix, AZ 85041

City

State

Zip

Signature of Authorized Person

Brandon Hart

Printed Name

General Manager

Title



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Copy of A.A.C. R2-7-103 [Confidential Information] as was current at time of Solicitation issuance

PROVIDED FOR REFERENCE ONLY

- A. *If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.*
- B. *Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.*
- C. *Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:*
 - 1. *The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;*
 - 2. *The designated information is not confidential; or*
 - 3. *Additional information is required before a final confidentiality determination can be made.*
- D. *If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.*
- E. *An agency chief procurement officer may release information designated as confidential under subsection (A) if:*
 - 1. *A request for review is not received by the state procurement administrator within the time period specified in the notice; or*
 - 2. *The state procurement administrator, after review, makes a written determination that the designated information is not confidential.*

End of Attachment 5-A



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Attachment 5-B
Conformance Statements

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.

READ PARAGRAPH 6.8 OF THE INSTRUCTIONS TO OFFERORS BEFORE TAKING ANY EXCEPTIONS – TAKING
EXCEPTIONS CAN BE GROUNDS FOR STATE REJECTING OR DOWN-GRADING YOUR OFFER IN EVALUATION.

CONFORMANCE TO THE INSTRUCTIONS:
(PART 3 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

☒ X

YES – Offeror acknowledges that it has read and understands the Instructions to Offerors in Section 3-A of the Solicitation Documents and attests that its Offer complies with both.

NO – Offeror acknowledges that it has read and understands the Instructions to Offerors in Section 3-A of the Solicitation Documents, and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 1**.

CONFORMANCE TO THE SCOPE AND PRICING DOCUMENTS:
(PART 2 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

☒ X

YES – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both.

NO – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 2**.

CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS:
(PART 2 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

☒ X

YES – Offeror acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices, in Part 2 of the Solicitation Documents and attests that its Offer complies with both.

NO – Offeror acknowledges that it has read and understand the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and

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Appendices in Part 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 3**.

ATTACHMENT 5-B Supplement No. 1:

Exceptions to Instructions

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 3-A: Instructions to Offerors		
☒	NONE	☒
☒	☒	☒
☒	☒	☒

Modular Solutions, Ltd.

Company Name

Signature of Person Authorized to Sign

ATTACHMENT 5-B Supplement No. 2:

Exceptions to Scope of Work and Pricing

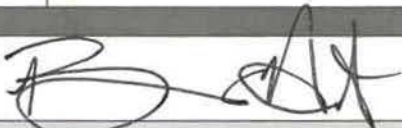
Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 2-A: Scope of Work		
☒	NONE	☒
☒	☒	☒
☒	☒	☒
☒	☒	☒
☒	☒	☒
Section 2-B: Pricing Document		

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☒	NONE	☒
☒	☒	☒
☒	☒	☒
☒	☒	☒
☒	☒	☒

Modular Solutions, Ltd.

Company Name



Signature of Person Authorized to Sign

ATTACHMENT 5-B Supplement No. 3:
Exceptions to Contract Terms & Conditions

Article/ Paragra ph or Exhibit Referen ce	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 2-C: Special Terms & Conditions		
11.11	Shipping- will be FOB destination	Every project will have shipping with oversize and special routing to be determined on a project by project basis FOB the site based on size of sections, and final DPS routing requirements
11.12	Delivery Time	Typical delivery of modular buildings is 90-120 days from approved plans
☒	☒	☒
☒	☒	☒
☒	☒	☒

Article/ Paragra ph or Appendi x	Proposed Changes / Alternate Language	Rationale for Proposed Change
--	---------------------------------------	----------------------------------



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Phoenix, AZ 85007

Referen ce		
Section 2-D: Uniform Terms & Conditions		
☒	☒	☒
☒	☒	☒
☒	☒	☒

A handwritten signature in black ink, appearing to read "Brandon Hart".



Modular Solutions, Ltd

Brandon Hart

End of Attachment 5-B

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Attachment 5-C
Letter of Insurability

The Offeror shall provide a Letter of Insurability from your Insurance company as a proof that the Offeror currently possesses the required insurance as stated in the Section 6.2 of Special Terms and Conditions or the Offeror is able to obtain the required Minimum Scope and Limits of Insurance should a contract be awarded to them.

**The Letter of Insurability (and any additional letters) should be clearly marked as
*Attachment 5 –C Supplement Insurance***

NOTE: If Awarded a Contract, The Offeror shall provide a Certificate of Insurance (e.g. ACORD forms) and associated policy endorsement(s) prior to beginning service(s) under the Contract.

End of Attachment 5-C



1819 E Morten Ave
Suite 220
Phoenix, AZ 85020
P 602-212-9160
F 602-212-9161

Mr. Joe Hart
Modular Solutions, Ltd.
PO Box 15507
Phoenix, AZ 85060

Re: Westfield Insurance Company

Dear Joe:

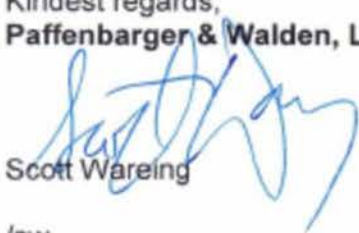
As you are aware, we have arranged surety support for your firm with Westfield Insurance Company, hereinafter referred to as "Westfield". Westfield is licensed to write surety bonds in all fifty states, is rated A (Excellent) by AM Best and has a US Treasury listing in excess of One Hundred Fifteen Million Dollars.

Westfield is prepared to routinely consider Modular Solutions, Ltd.'s single contract requests up to fifteen million dollars (\$15,000,000) and up to thirty million dollars (\$30,000,000) in total aggregate support. We would anticipate no problem providing the customary performance and payment bonds for your normal scope of work on contracts that fall within the parameters stated above.

Please note that this letter was written for no consideration and is not a legally binding document or commitment to provide future bonds. This letter was provided as an indication of our confidence in Modular Solutions, Ltd.

If you have any questions concerning this matter or would like to discuss a specific bond request in more detail, please do not hesitate to contact us directly.

Kindest regards,
Paffenbarger & Walden, LLC dba The Bond Source



Scott Wareing

/sw



CERTIFICATE OF LIABILITY INSURANCE

Page 330 of 451

DATE (MM/DD/YYYY)

09/09/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CORPORATE INSURANCE SOLUTIONS 8080 E. Gelding Dr. Suite 110 Scottsdale AZ 85260		CONTACT NAME: Linda Salmond PHONE (A/C, No, Ext): (480) 336-8740 FAX (A/C, No): (480) 339-0064 E-MAIL ADDRESS: lindap@corpins-solutions.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Acadia Insurance Co	
		INSURER B: Continental Western Insurance Co.	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES	CERTIFICATE NUMBER: CL214203307	REVISION NUMBER:
------------------	--	-------------------------

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ BF/Contractual/XCU ☒ Deductible \$0 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	CPA4688402-16	04/01/2021	04/01/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000	
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	Y	Y	CPA4688402-16	04/01/2021	04/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			CUA4690244-16	04/01/2021	04/01/2022	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	Y	WCA4688403-17	04/01/2021	04/01/2022	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Rented/Leased Equipment Blt Builders Risk-Special Form			CPA4688402-16	04/01/2021	04/01/2022	Blanket Rented/Leased \$150,000 Builders Risk Limit \$1,500,000 Builders Risk Ded \$2,500	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The State of Arizona and its departments, agencies, boards, commissions, universities, officers, officials, agents and employees are named as additional insureds on a primary and non contributory basis with respects to general and auto liability where required by written contract. Waiver of subrogation applies to general and auto liability and workers compensation where required by written contract. See attached forms.

CERTIFICATE HOLDER

CANCELLATION

Arizona Department of Administration General Services Division 100 N 15th Ave. Suite 103 Phoenix AZ 85007	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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**COMMERCIAL GENERAL LIABILITY
CG 20 01 12 19**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance Condition** and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

COMMERCIAL GENERAL LIABILITY
CL CG 04 43 09 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS GENERAL LIABILITY ULTRA ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SUMMARY OF COVERAGE EXTENSIONS

Provision	Name Of Coverage Extension	Included or Limit of Insurance
A.	Miscellaneous Additional Insureds	Included
B.	Aggregate Limits Of Insurance For Construction Projects:	
	1. Single Construction Project Aggregate Limit (Away From Premises)	Equal To General Aggregate Limit
	2. Cap For All Damages From All Ongoing Construction Projects	\$5,000,000
C.	Expected Or Intended Injury Or Damage	Included
D.	Joint Venture / Partnership / Limited Liability Company Coverage	Included
E.	Knowledge Of Occurrence	Included
F.	Legal Liability – Damage To Premises Rented To You (Fire, Lightning, Explosion, Smoke, Or Leakage From Automatic Fire Protective Systems)	Included
G.	Medical Payments	\$10,000
H.	Mobile Equipment Redefined	Included
I.	Newly Formed Or Acquired Organizations – Extended Period Of Coverage	Included
J.	Non-Owned Watercraft (Increased to maximum length of less than 51 feet)	Included
K.	Supplementary Payments – Increased Limits:	
	1. Bail Bonds	\$3,000
	2. Loss Of Earnings	\$1,000
L.	Unintentional Omission Or Unintentional Error In Disclosure	Included
M.	Waiver Of Subrogation	Included

The above is a summary only. Please consult the specific provisions that follow for complete information on the extensions provided.

The provisions of the Commercial General Liability Coverage Part apply except as otherwise provided in this endorsement. This endorsement applies only if such Coverage Part is included in this policy.

A. MISCELLANEOUS ADDITIONAL INSUREDS

1. **Section II – Who Is An Insured** is amended to include as an insured any person or organization (referred to as additional insured below) described in Paragraphs **A.1.c.(1)** through **A.1.c.(4)** below when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, provided that:

- a. The written contract or written agreement is:
 - (1) Currently in effect or becoming effective during the term of this policy; and
 - (2) Fully executed by you and the additional insured prior to the "bodily injury", "property damage" or "personal and advertising injury".
- b. The insurance afforded by this provision does not apply to any person or organization included as an additional insured

- (d) If the first Named Insured fails to comply with the premium audit after 30 days of our receipt of the notification described in Paragraph (2)(a) above, a subsequent notice will be sent to the first Named Insured indicating that the Audit Noncompliance Charge and the Reassessment Charge (if applicable) will be final. The due date for the Audit Noncompliance Charge and the Reassessment Charge is the date shown as the due date on the bill.

by a separate endorsement issued by us and made a part of this policy or coverage part.

- c. Only the following persons or organizations are additional insureds under this provision, with coverage for such additional insureds limited as provided herein:

(1) Managers Or Lessors Of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (a) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (b) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

(2) Lessor Of Leased Equipment

Any person or organization from whom you lease equipment but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such leased equipment ends.

This insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(3) Controlling Interest

Any person(s) or organization(s) with a controlling interest in the Named Insured, but only with respect to their liability arising out of:

- (a) Their financial control of you; or
- (b) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

(4) Owners Or Contractors For Whom You Are Performing Ongoing Operations

- (a) Any person or organization for whom you are performing operations but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (i) Your acts or omissions; or
- (ii) The acts or omissions of those acting on your behalf:

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this provision ends when your operations for that additional insured are completed.

- (b) With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

- (i) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1.1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys,

field orders, change orders or drawings and specifications; or

in performing operations for a principal as a part of the same project.

- (1.2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

- (ii) "Bodily injury" or "property damage" occurring after:

- (1.1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

- (1.2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged

2. With respect to coverage provided by this Provision **A. Miscellaneous Additional Insureds**, the following additional provisions apply:

- a. Any insurance provided to an additional insured designated under Paragraphs **A.1.c.(1)** through **A.1.c.(4)** above does not apply:

(1) To "bodily injury" or "property damage" included within the "products-completed operations hazard"; or

(2) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence of such additional insured.

- b. The insurance afforded to such additional insured only applies to the extent permitted by law.

- c. The insurance afforded to such additional insured will not be broader than that which you are required to provide by the written contract or written agreement.

3. With respect to the insurance afforded to the additional insureds within this Provision **A. Miscellaneous Additional Insureds**, the following is added to **Section III – Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the written contract or written agreement; or
b. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

B. AGGREGATE LIMITS OF INSURANCE FOR CONSTRUCTION PROJECTS

1. For all sums which the insured becomes legally obligated to pay as damages caused

by "occurrences" under **Section I – Coverage A**, and for all medical expenses caused by accidents under **Section I – Coverage C**, which can be attributed only to ongoing operations at construction projects away from premises owned by or rented to the insured:

a. The most we will pay will be capped at **\$5,000,000**, regardless of the number of:

- (1) "Occurrences";
- (2) Insureds;
- (3) Claims made or "suits" brought;
- (4) Persons or organizations making claims or bringing "suits"; or
- (5) Separate construction projects.

b. Subject to Paragraph B.1.a. above:

(1) A separate Single Construction Project General Aggregate Limit applies to each construction project away from premises owned by or rented to the insured, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.

(2) The Single Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **Section I – Coverage A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **Section I – Coverage C** regardless of the number of:

- (a) Insureds;
- (b) Claims made or "suits" brought; or
- (c) Persons or organizations making claims or bringing "suits".

(3) Any payments made under **Section I – Coverage A** for damages or under **Section I – Coverage C** for medical expenses shall reduce the Single Construction Project General Aggregate Limit for that construction project away from premises owned

by or rented to the insured. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Single Construction Project General Aggregate Limit for any other separate construction project away from premises owned by or rented to the insured.

(4) The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Single Construction Project General Aggregate Limit.

2. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **Section I – Coverage A**, and for all medical expenses caused by accidents under **Section I – Coverage C**, which cannot be attributed only to ongoing operations at a single construction project away from premises owned by or rented to the insured:

a. Any payments made under **Coverage A** for damages or under **Coverage C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and

b. Subject to Paragraph B.1.a. above, such payments shall not reduce any Single Construction Project General Aggregate Limit.

3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Single Construction Project General Aggregate Limit.

4. If a single construction project away from premises owned by or rented to the insured has been abandoned, delayed, or abandoned and then restarted, or if the

conduct of any current, or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

3. As used in this endorsement, "consolidated (wrap-up) insurance program" (also known as an owner-controlled insurance program, OCIP) means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction, erection or demolition project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, sometimes referred to as a Contractor Controlled Insurance Program (CCIP).

E. KNOWLEDGE OF OCCURRENCE

Paragraph 2.a. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV – Commercial General Liability Conditions is deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim only when the "occurrence" or offense is known to:
 - (1) You, if you are an individual;
 - (2) A partner, if you are a partnership;
 - (3) A manager, if you are a limited liability company; or
 - (4) An "executive officer" or the "employee" designated by you to give such notice, if you are an organization other than a partnership or limited liability company.

To the extent possible, notice should include:

- (i) How, when and where the "occurrence" or offense took place;
- (ii) The names and addresses of any injured persons and witnesses; and
- (iii) The nature and location of any injury or damage arising out of the "occurrence" or offense.

F. LEGAL LIABILITY – DAMAGE TO PREMISES RENTED TO YOU (Fire, Lightning, Explosion, Smoke Or Leakage From Automatic Fire Protective Systems)

If damage to premises rented to you is not otherwise excluded from this policy or coverage part, then the following provisions apply:

1. Under **Section I – Coverage A – Bodily Injury And Property Damage Liability** the last paragraph (after the exclusions) is deleted and replaced by the following:

Exclusion c. through n. do not apply to damage by fire, lightning, explosion, "smoke", or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **Section III – Limits Of Insurance**.

2. The paragraph immediately after Subparagraph j.(6) of Paragraph 2. **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** is deleted and replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, "smoke" and leakage from automatic fire protective systems) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance**.

3. Paragraph 6. of **Section III – Limits Of Insurance** is deleted and replaced by the following:

6. Subject to Paragraph 5. above, the greater of:

- a. \$300,000; or

- b. The Damage To Premises Rented To You Limit shown in the Declarations;

is the most we will pay under **Coverage A** for damages because of "property damage" to premises while rented to you,

or in the case of damage by fire, lightning, explosion, "smoke" or leakage from automatic fire protective systems, while rented to you or temporarily occupied by you with permission of the owner.

This limit will apply to all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, "smoke", leakage from automatic fire protective systems, or other covered causes of loss or any combination thereof.

4. Subparagraph **b.(1)(a)(ii)** of Paragraph 4. **Other Insurance of Section IV – Commercial General Liability Conditions** is deleted and replaced by the following:

(ii) That is fire, lightning, explosion, "smoke", or leakage from automatic fire protective systems insurance for premises rented to you or temporarily occupied by you with permission of the owner;

5. Subparagraph **a.** of Definition 9. "Insured contract" of **Section V – Definitions** is deleted and replaced by the following:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, "smoke", or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract".

6. As used in this Provision F. **Legal Liability – Damage To Premises Rented To You:**

"Smoke" does not include smoke from agricultural smudging, industrial operations or "hostile fire".

G. MEDICAL PAYMENTS

If **Coverage C – Medical Payments** is not otherwise excluded from this policy or coverage part, the Medical Expense Limit is changed, subject to the terms of **Section III – Limits Of Insurance**, to the greater of:

- a. \$10,000; or
- b. The Medical Expense Limit shown in the Declarations.

H. MOBILE EQUIPMENT REDEFINED

Subparagraph **f.(1)** of Definition 12. "Mobile equipment" of **Section V – Definitions** is deleted and replaced by the following:

- (1) Equipment with a gross vehicle weight of 1,000 pounds or more and designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

I. NEWLY FORMED OR ACQUIRED ORGANIZATIONS – EXTENDED PERIOD OF COVERAGE

Paragraph 3. of **Section II – Who Is An Insured** is deleted and replaced by the following:

3. Any organization you newly acquire or form, other than:
- (i) A partnership, joint venture, or limited liability company; or
 - (ii) An organization excluded either by the provisions of this policy or coverage part, or by endorsement,

and over which you maintain ownership or majority interest of more than 50% will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the next anniversary date of this policy's effective date after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. **Section I – Coverage A – Bodily Injury And Property Damage Liability** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- c. **Section I – Coverage B – Personal And Advertising Injury Liability** does not apply to “personal and advertising injury” arising out of an offense committed before you acquired or formed the organization.

J. NON-OWNED WATERCRAFT

Subparagraph (2) of Exclusion 2.g. **Aircraft, Auto Or Watercraft of Section I – Coverage A – Bodily Injury And Property Damage Liability** is deleted and replaced by the following:

(2) A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not being used to carry persons or property for a charge;

K. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

Section I – Supplementary Payments – Coverages A And B is changed as follows:

1. The limit shown in Paragraph 1.b. for the cost of bail bonds is changed from \$250 to \$3,000; and
2. The limit shown in Paragraph 1.d. for loss of earnings because of time off from work is changed from \$250 a day to \$1,000 a day.

L. UNINTENTIONAL OMISSION OR UNINTENTIONAL ERROR IN DISCLOSURE

The following provision is added to Paragraph 6. **Representations of Section IV – Commercial General Liability Conditions:**

However, the unintentional omission of, or the unintentional error in, any information given or provided by you shall not prejudice your rights under this insurance.

This provision does not affect our right to collect additional premium or to exercise our right of cancellation or non-renewal.

M. WAIVER OF SUBROGATION

Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Commercial General Liability Conditions is amended by the addition of the following:

Notwithstanding anything to the contrary in the previous paragraph, we waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or “your work” included in the “products-completed operations hazard”, if:

- a. Such operations or work were done under a written contract or written agreement between you and such person or organization that contained a provision requiring such waiver; and
- b. Such written contract or written agreement was:
 - (1) Made prior to the covered injury or damage; and
 - (2) In effect at the time of the covered injury or damage.

This waiver applies only with respect to such person or organization.

COMMERCIAL GENERAL LIABILITY
CL CG 20 23 09 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS: AUTOMATIC STATUS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Additional Insured(s)

1. **Section II – Who Is An Insured** is amended to include as an additional insured any person or organization for whom you have agreed to add as an additional insured on your policy in a written contract or written agreement, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” performed for that additional insured and included in the “products-completed operations hazard”.
2. The insurance afforded to such additional insured(s) described in Paragraph 1. above is subject to each of the following additional provisions:
 - a. The coverage provided to the additional insured by this endorsement does not apply to “bodily injury” or “property damage” beyond:
 - (1) The period of time required by the written contract or written agreement described in Paragraph 1. above, or 10 years from the date of the completion of “your work” described in Paragraph 1. above, whichever is less; or
 - (2) Two years from the date of the completion of “your work” described in Paragraph 1. above, if the written contract or written agreement does not specify the period of time.
 - b. The insurance afforded to the additional insured(s) only applies to the extent permitted by law.

- c. The written contract or written agreement must have been executed prior to when the “bodily injury” or “property damage” occurs.

- d. The following is added to **Section III – Limits Of Insurance**:

The most we will pay on behalf of the additional insured(s) is the amount of insurance:

- (1) Required by the written contract or written agreement described in Paragraph 1. above; or
- (2) Available under the applicable Limits of Insurance shown in the Declarations of this policy or coverage part;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations of this policy or coverage part.

B. Professional Liability Exclusion

With respect to coverage provided by this endorsement, the following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability**:

This insurance does not apply to “bodily injury” or “property damage” arising out of:

**COMMERCIAL AUTO
CL CA 20 14 10 13**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO ULTRA PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SUMMARY OF COVERAGE EXTENSIONS

Paragraph No.	Name Of Extension	Limit or Included
A.	Additional "Insured" By Contract Or Agreement	Included
B.	Airbags Coverage Extension	Included
C.	Employees As Insureds	Included
D.	Hired Auto Physical Damage Coverage (Limited)	\$65,000
E.	Employee Hired Autos (Limited)	\$65,000
F.	Knowledge Of Accident, Claim, Suit, Or Loss	Included
G.	Limited Fellow Employee Coverage	Included
H.	Limited Loan/Lease Gap Coverage	\$1,500
I.	Limited Rental Reimbursement Coverage	45 Days
	Sublimits: 1. \$75 Maximum Rental Expenses Per Day	
	2. \$3,375 Maximum Rental Expenses Because Of Loss To Any One Covered "Auto"	
	3. \$15,000 Maximum Rental Expenses Because Of All "Loss" To All Covered "Autos" In Any One Policy Period.	
J.	Newly Formed Or Acquired Organizations	Included
K.	Supplementary Payments – Increased Limits:	
	1. Bail Bonds	\$3,000
	2. Loss Of Earnings (Per Day)	\$1,000
L.	Towing And Labor Coverage Extension	\$75
M.	Waiver Of Subrogation By Contract Or Agreement	Included

The above is a summary only. Please consult the specific provisions that follow for complete information on the extensions provided. If there is a conflict between this summary and the endorsement provisions that follow, the endorsement provisions shall prevail.

A. ADDITIONAL INSURED BY CONTRACT OR AGREEMENT

1. The **Who Is an Insured** provision for **Covered Autos Liability Coverage** is changed to add as an additional insured any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, subject to the following additional provisions

- a. Such person or organization is an additional insured only with respect to their vicarious legal responsibility for "bodily injury" or "property damage" caused by an "accident" and resulting from your ownership, maintenance or use of a covered "auto", and then only to the extent of that liability.
- b. Such person or organization is not an additional insured for any covered "auto" owned by, hired from, or borrowed from such person or organization or a member of such person's household.
- c. Such written contract or agreement must be executed prior to, and be in effect at the time of, the "bodily injury" or "property damage".
- d. Paragraph H. "Insured Contract" contained in **Section V—Definitions** is changed to add sub-paragraph d. to the end of that definition, as follows:

An "insured contract" does not include that part of any contract or agreement:

- d. That pertains to the ownership, maintenance or use of an "auto" and which indemnifies a person or organization for other than the vicarious liability of such person or organization for "bodily injury" or "property damage" caused by an "accident" and resulting from your ownership, maintenance or use of a covered "auto".
2. None of the following shall be an additional insured under this endorsement:
 - a. Any "motor carrier" for hire or his or her "employees"; or
 - b. Any rail, water or air carrier or their "employees"
 for any covered "auto".
 3. Paragraph A.1. **Who Is An Insured** contained in **Section II – Covered Autos Liability Coverage**, is changed to delete sub-paragraph c.

4. The additional insured is not required to pay for any premiums stated in the policy or earned from the policy. Any return premium shall be payable to you.
5. You are authorized to act for the additional insured in all matters pertaining to this insurance.
6. The additional insured will retain any right of recovery as a claimant under this policy.

B. AIRBAGS COVERAGE EXTENSION

Exclusion B.3.a. contained in **Section III – Physical Damage Coverage** does not apply to the unintended discharge of an airbag. However, coverage is excess over any other collectible insurance or warranty specifically designed to provide coverage.

C. EMPLOYEES AS INSUREDS

The following is added to the **Section II – Covered Autos Liability Coverage**, Paragraph A.1. **Who Is An Insured** provision:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

However, the insurance provided by this provision, **C. Employees As Insureds**, does not apply if separate Employees As Insured coverage (or any similar or equivalent coverage) has been provided by a separate endorsement issued by us and made a part of this policy or coverage part.

D. HIRED AUTO PHYSICAL DAMAGE COVERAGE (LIMITED)

If hired "autos" are covered "autos" for **Covered Autos Liability Coverage** in this policy or coverage part, then such **Physical Damage Coverage** that is provided in this policy or coverage part for your owned "autos" will be extended to certain "autos" you lease, hire, rent or borrow, subject to the following additional provisions:

1. This extension for **Hired Auto Physical Damage Coverage (Limited)** does not apply to:
 - a. Any "auto" you lease, hire, rent or borrow that is a land vehicle that would qualify under the definition of "mobile equipment" under this policy or coverage part if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged;

- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

G. LIMITED FELLOW EMPLOYEE COVERAGE

Paragraph 5. **Fellow Employee** of Paragraph B. **Exclusions** contained in **Section II – Covered Autos Liability Coverage** is replaced by the following:

5. Fellow Employee

- a. "Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph a. above.

However, this exclusion does not apply to liability incurred by your "employees" that are "executive officers".

Such coverage is excess over any other collectible insurance, and Paragraph 5. **Other Insurance** of Paragraph B. **General Conditions** under **Section IV – Business Auto Conditions** is changed accordingly.

Any insurance provided by this provision **G. Limited Fellow Employee Coverage** does not apply if separate Fellow Employee Coverage (or any similar or equivalent coverage) has been provided by a separate endorsement issued by us and made a part of this policy or coverage part.

As used in this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

H. LIMITED LOAN/LEASE GAP COVERAGE

Paragraph 4. **Coverage Extensions** of Paragraph A. **Coverage** contained in **Section III – Physical Damage Coverage** is amended to add the following:

In the event of a covered total "loss" to a covered "auto" which is either owned by you or is long-term leased by you for a period of 12 consecutive months or longer, we will pay any unpaid amount due on your loan or lease for such covered "auto", subject to the following additional provisions:

1. We will only pay the lesser of:
 - a. The sum of such unpaid amount, less

- (1) The amount paid under the **Physical Damage Coverage Section** of the policy or coverage part; and

(2) Any:

- (a) Overdue loan/lease payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the Lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases; or

b. \$1,500.

2. This extension does not apply to any "auto" that is a land vehicle that would qualify under the definition of "mobile equipment" under this policy or coverage part if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged;
3. The insurance afforded for **Limited Loan/Lease Gap Coverage** in this extension endorsement does not apply if separate **Loan/Lease Gap Coverage** is afforded for such covered "auto" in an endorsement issued by us and made a part of this policy or coverage part.

I. LIMITED RENTAL REIMBURSEMENT COVERAGE

We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of a covered physical damage "loss" to a covered "auto" you own, subject to the following additional provisions:

1. As used in this Rental Reimbursement Coverage provision, "auto" means a land motor vehicle, "trailer" or semitrailer designed for travel on public roads.

However, "auto" does not include:

- a. "Mobile equipment"; or

- b. Any other land vehicle that would qualify under the definition of "mobile equipment" under this policy or coverage part if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.
2. Payment applies in addition to the otherwise applicable amount of each coverage you have on the covered "auto".
 3. No deductible applies to this coverage.
 4. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the expiration date of the policy, with the lesser of the following number of days:
 - a. The number of days reasonably required to repair or replace the covered "auto"; or
 - b. 45 days
 5. Our payment is limited to the lesser of the following amounts:
 - a. Necessary and actual expenses incurred.
 - b. The maximum rental expenses shown below:
 - (1) \$75 any one day;
 - (2) \$3,375 because of "loss" to any one covered "auto";
 - (3) \$15,000 because of all "loss" to all covered autos in any one policy period.
 6. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
 7. Paragraph a. **Transportation Expenses** of Paragraph 4. **Coverage Extension** of Paragraph A. **Coverage** contained in **Section III – Physical Damage Coverage**, does not apply and is entirely deleted.
 8. The insurance afforded for **Limited Rental Reimbursement Coverage** in this extension endorsement does not apply if separate Rental Reimbursement Coverage is issued by us as an endorsement and made a part of this policy or coverage part.

J. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

The Named Insured shown in the Business Auto Declarations is amended to include any organization you newly form or acquire, other than:

- (i) a partnership, joint venture, or limited liability company; or
- (ii) an organization excluded either by the provisions of this Coverage Part, or by endorsement,

and over which you maintain ownership or majority interest of more than 50%, subject to the following additional provisions:

1. This insurance does not apply to any newly formed or acquired organization that is an "insured" under any other automobile policy or would be an "insured" under such policy but for its termination or the exhaustion of its Limit of Insurance.
2. Coverage under this provision does not apply to injury, damage, expense, or "loss" that occurred before you formed or acquired the organization.
3. Coverage under this provision is afforded only until the next anniversary date of this policy's effective date after you acquire or form the organization, or the end of the policy period, whichever is earlier.

K. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

The following changes are made to the Paragraph a. **Supplementary Payments** of Paragraph 2. **Coverage Extensions** of Paragraph A. **Coverage** contained in **Section II – Covered Autos Liability Coverage**:

1. The limit shown in Subparagraph (2) for the cost of bail bonds is changed from \$2,000 to \$3,000.
2. The limit shown in Subparagraph (4) for all reasonable expenses incurred at our request, including actual loss of earnings because of time off work, is changed from \$250 to \$1,000 per day.

L. TOWING AND LABOR COVERAGE EXTENSION

Paragraph 2. **Towing** of Paragraph A. **Coverage** under **Section III – Physical Damage Coverage** is entirely replaced by the following:

With respect to any "private passenger auto" or "light truck" you own that is provided both Comprehensive Coverage and Collision Coverage in this policy or coverage part, we will pay up to \$75 for towing and labor costs incurred each time such "private passenger auto" or "light truck" is disabled, subject to the following additional provisions:

1. The labor must be performed at the place of disablement;

2. This coverage does not apply to stolen "autos".
3. If, at the time of disablement, such "private passenger auto" or "light truck" is also a covered "auto" for the **Physical Damage Towing And Labor** coverage shown under **Item Two** of the **Business Auto Declarations** in this policy or coverage part, the most we will pay for each covered disablement is the greater of:
 - a. The limit shown under **Item Two** in the **Declarations**, or
 - b. \$75
4. As used in this coverage:
 - a. "Private passenger auto" means a four-wheel auto of the private passenger or station wagon type; and
 - b. "Light truck" means a pick-up or panel truck, sport utility vehicle or similar "auto", with a Gross Vehicle Weight (GVW) of 11,000 pounds or less.

Gross Vehicle Weight (GVW) is the maximum loaded weight for which a single "auto" is designed, as specified by the manufacturer.

M. WAIVER OF SUBROGATION BY CONTRACT OR AGREEMENT

The following is added to Paragraph **A.5. Transfer Of Rights Of Recovery Against Others To Us** contained in **Section IV – Business Auto Conditions**:

Notwithstanding anything to the contrary in the previous paragraph, we waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury", "property damage" or "loss" arising out of the operation, maintenance, use, loading or unloading of a covered "auto" when you and such person or organization have agreed in writing in a contract or agreement to waive such right of recovery, provided:

1. Such written contract or agreement was:
 - a. Made prior to the covered injury or damage; and
 - b. In effect at the time of the covered injury or damage; and
2. The injury or damage arises out of the operations contemplated by such written contract or agreement.

This waiver applies only to such person or organization designated in such written contract or agreement.



Request for Proposal

Solicitation No.

BPM003812

Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration

General Services Division

100 N. 15th Ave., Suite 103
Phoenix, AZ 85007

Attachment 5-D

Reserved

End of Attachment 5-D



Request for Proposal
Solicitation No.
BPM003812
Commercial Modular/Pre-Engineered Buildings

Arizona Department of Administration
General Services Division
100 N. 15th Ave., Suite 103
Phoenix, AZ 85007

Attachment 5-E
Offer Checklist

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT SUBMIT ALL ATTACHMENTS.

	DOCUMENT	SUBMITTED
1.	Attachment 1: Offer and Acceptance Form	☒ YES ☐ no
2.	Attachment 2-A: Experience and Capacity Questionnaire	☒ YES ☐ no
3.	Attachment 2-B: Organization Profile	☒ YES ☐ no
4.	Attachment 3-A: Method Proposal	☒ YES ☐ no
5.	Attachment 3-B: Key Personnel Proposal	☒ YES ☐ no
6.	Attachment 3-C: Reserved	☐ YES ☐ no
7.	Attachment 3-D: Israel Boycott Disclosure (Not used to determine susceptibility and responsiveness)	☒ YES ☐ no
8.	Attachment 4: Pricing Sheets	☒ YES ☐ no
9.	Attachment 5-A: Confidential Information Designation	☒ YES ☐ no
10.	Attachment 5-B: Conformance Statements	☒ YES ☐ no
11.	Attachment 5-C: Letter of Insurability	☒ YES ☐ no
12.	Attachment 5-D: Reserved	☐ YES ☐ no
13.	Attachment 5-E: Offer Checklist	☒ YES ☐ no

End of Attachment 5-E

End of Part 3

STATE OF ARIZONA
BOARD OF TECHNICAL REGISTRATION

■ **FIRM REGISTRATION** ■

FIRM NAME:
Modular Solutions, Ltd.

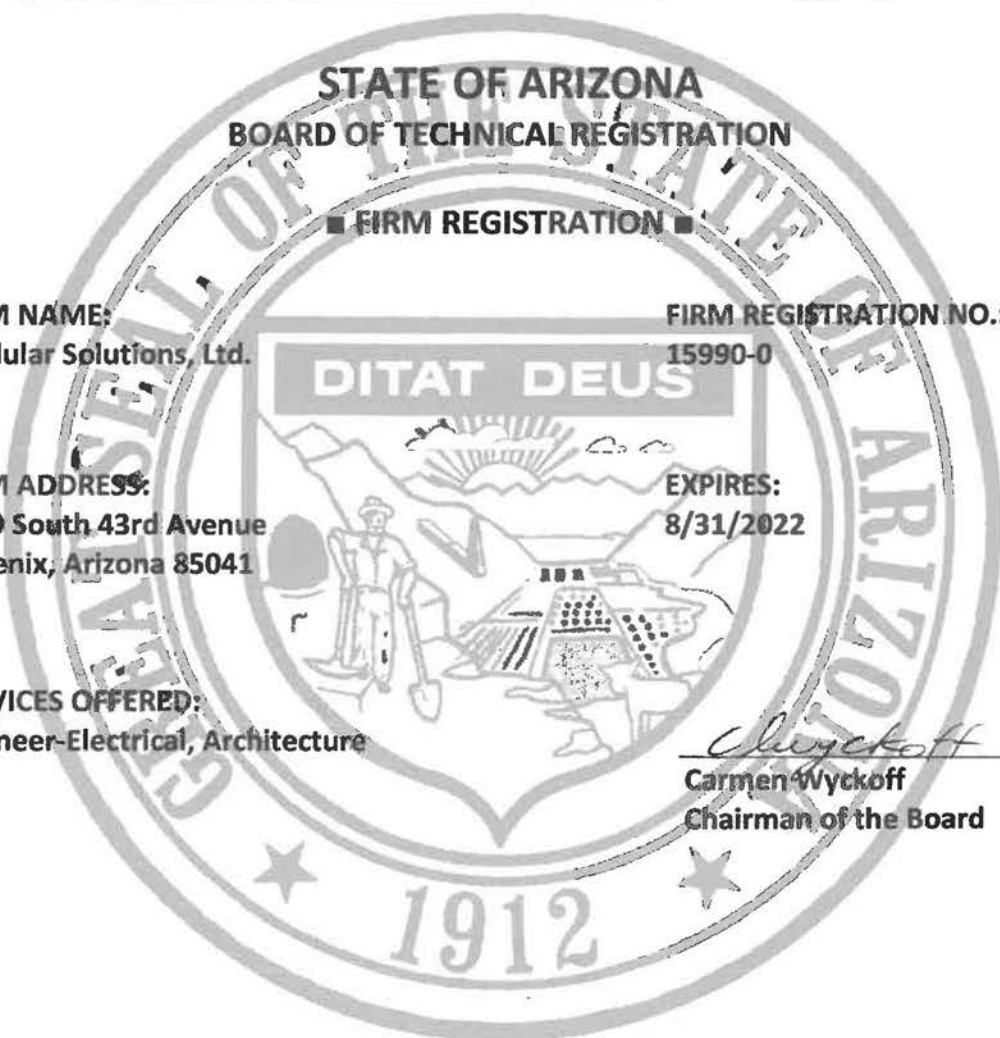
FIRM REGISTRATION NO.:
15990-0

FIRM ADDRESS:
5439 South 43rd Avenue
Phoenix, Arizona 85041

EXPIRES:
8/31/2022

SERVICES OFFERED:
Engineer-Electrical, Architecture


Carmen Wyckoff
Chairman of the Board



IMPORTANT NOTICE
YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY **IN WRITING** WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS **IN WRITING** WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY [SEE A.R.S. § 32-1151.01]
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY, SUCH AS ANY CHANGE OF THE OWNERSHIP IN A SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. [SEE A.R.S. § 32-1124(B)(F) § RULE R-4-9-110]

Modular Solutions Ltd

PO Box 15507
Phoenix, AZ 85060

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Modular Solutions Ltd

PO Box 15507
Phoenix, AZ 85060

THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY



LICENSE EFFECTIVE THROUGH: April 30, 2023
STATE OF ARIZONA

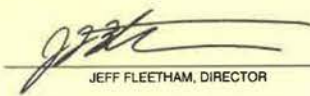
Registrar of Contractors CERTIFIES THAT

Modular Solutions Ltd

CONTRACTORS LICENSE NO. ROC 272406 CLASS B

General Residential
General Residential Contractor

THIS CARD MUST BE
PRESENTED UPON DEMAND


JEFF FLEETHAM, DIRECTOR



THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY



LICENSE EFFECTIVE THROUGH: April 30, 2023
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LICENSE EFFECTIVE THROUGH: April 30, 2023
STATE OF ARIZONA

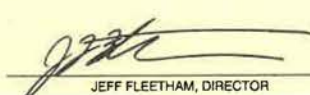
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CONTRACTORS LICENSE NO. ROC 272406 CLASS B

General Residential
General Residential Contractor

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PRESENTED UPON DEMAND


JEFF FLEETHAM, DIRECTOR



DETAILS FOR
MODULAR SOLUTIONS LTD
LICENSE NUMBER ROC 184932

WEDNESDAY MAY 12, 2021 11:05:20 AM

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CONTRACTOR

LICENSE

NAME / ADDRESS / PHONE
Modular Solutions Ltd
5439 S 43rd Ave
Phoenix, AZ 85041
Phone: 602-952-9741

CLASS & DESCRIPTION
General Commercial B-1 General Commercial Contractor

ENTITY TYPE
Corporation

STATUS / ACTION

ISSUED / RENEWAL
First Issued: 2003-05-05
Renewed Through: 2023-05-31

Active

This license is QP Exempt. 

License Number: 6698

Class: D-10

License Issue Date: 1/12/2021

Date License Renewal is due: 1/30/2022

STATE OF ARIZONA

Department of Housing

1110 West Washington, Suite 280

Phoenix, AZ 85007

LICENSE CERTIFICATE

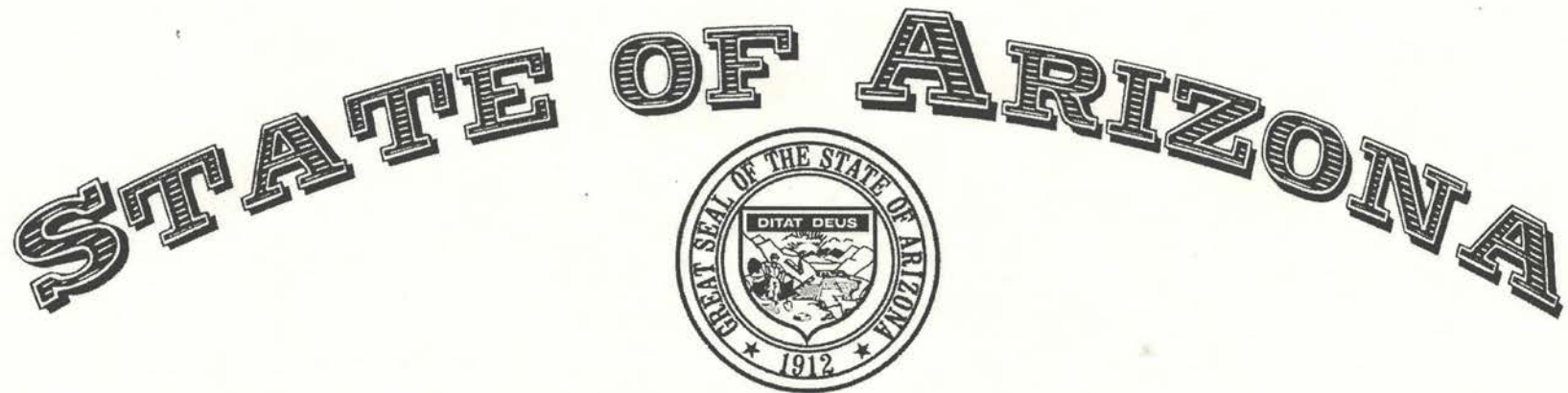
Modular Solutions, Ltd.

P.O. Box 15507

Phoenix, AZ 85060

For: 5439 S. 43rd Av. Phoenix AZ 85041





Board of Technical Registration

Joshua Hart

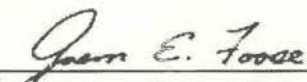
Having exhibited to the Arizona State Board of Technical Registration satisfactory evidence of good moral character and of qualifications and proficiency, is hereby authorized to practice professionally in the state of Arizona and use the title of

ELECTRICAL ENGINEER

In witness thereof, the Board grants certificate number **68230** and affixes the seal of this board at Phoenix, Arizona this 4th day of January, 2019




Alejandro Angel, Board Chair


Jason Foosse, Vice Chair

License Number: **8905**

Class: I-10G

License Issue Date: November 19, 2020

Date License Renewal is due: NOV 18, 2021

Modular Solutions Ltd.

P.O. Box 15507

Phoenix AZ 85041

FOR: 5439 S. 43rd Ave. Phoenix AZ 85041

STATE OF ARIZONA
Department of Housing

1110 West Washington, Suite 280
Phoenix, AZ 85007

LICENSE CERTIFICATE



ADOH 004 (6/16)

License Number: **8111**

Class: M-9A

License Issue Date: August 24, 2021

Date License Renewal is due: JUN 29, 2022

Modular Solutions Ltd.

P.O. Box 15507

Phoenix AZ 85060

FOR: 5439 S. 43rd Av. Phoenix AZ 85041

STATE OF ARIZONA

Department of Housing

1110 West Washington, Suite 280

Phoenix, AZ 85007

LICENSE CERTIFICATE



ADOH 004 (6/16)

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
MODULAR SOLUTIONS, LTD.

[Quote]

See following pages.



The Complete Modular Building Company

Project Name: 22146CV Chino Valley

Building State: AZ

Quote Date: 8/2/2023

Code: IBC 2018

Building Size: 24x50

Customer: Town of Chino Valley

Email: mdavis@chinoaz.net

Phone: 928-636-3600

Project Location: Chino Valley, Az



ADOA
ARIZONA DEPARTMENT OF ADMINISTRATION

State of Arizona, ADOA Contract Details

Modular building contract#: CTR057393
Steel Building contract#: CTR057392

CATEGORY	ITEM	QTY	Unit	DESCRIPTION	Remark
BUILDING PART					
Frame	Frame Type			Basement	
	Section Type				
	Type 1	2	EA	12'-0"x50'	
Floor	Floor Load			50 PSF	
	Floor Joist Size	76.00	EA	2x6 16" O.C.	
	100 PSF psf @ Conference room	57.00	EA	2x6	
	Floor insulation	1,200	SF	Unfaced R-30 Insulation	
	Floor Decking	38.00	EA	3/4" 4x8 T&G OSB	
	Floor Covering	68	SF	Sheet Vinyl (Welded Seams)	Restrooms
		1,132	SF	LVT	Location
	Wall base	214	LF	4" Vinyl Cove base	Location
		34	LF	6" Vinyl Cove base	Restrooms
	Bottom Board	1,200	SF	Reinforced plastic bottom board	
Exterior Wall	Wall stud size			2x6	
	Insulation	1,576	SF	Kraft Faced R-19 Insulation	
	Wrap	1,576.00	SF	House Wrap	
	Siding	50.00	EA	LP Smart Panel 8" Groove - 8' Tall	
	Exterior trim	376	LF	4" exterior trim	
		296	LF	8" exterior bottom and Hood trim	
	Painting	1,576	SF	Exterior wall paint	Sherwin Williams
Interior Wall	Interior Wall Height			10ft	
	Interior Wall Studs			2x4 16"O.C	
	Insulation	750	SF	Unfaced R-11 Insulation	Interior Walls
	Covering	2,980	SF	5/8" Drywall taped and textured(Medium knock-down)	
	FRP	64	SF	FRP, Adhesive, trims	
	Painting	2,980	SF	Interior Wall primer	
		2,980	SF	Interior Wall paint	
Ceiling	Ceiling Height			8.00	
	Suspended Ceiling	1,200	SF	Throughout	
	Washable ceiling tile	12	EA	2x4 washable ceiling tile	
	Ceiling Tile	138	EA	2x4 ceiling tiles	
Roof	Roof Load			30 PSF	
	Roof Type			Pitched	
	Slope			2 1/2" to 12"	
	Rafter	75	EA	2x8 16" Spacing	
	Insulation	1,200	SF	Unfaced R-38 Insulation	
	Beam	100	LF	Roof beam	W14x22
	Columns	6	EA	Wood Columns	
	Decking	40	EA	1/2" OSB	
	Roof Covering	12	SQ	3-tab Shingles 25year	
	Overhangs	100	LF	6" Roof Overhang / Soffit	
	Downspouts	4	EA	Downspouts	
	Gutters	100	LF	Galvanized metal gutter 5" Box, 0.027"	
Doors & Hardware					
Exterior Doors	Exterior door 101	2	EA	3068 20GA. Flush, insulated, 16GA. DW KD Jamb	
	Lite kit	2	EA	Lite kit, installed, 22 x 28	
	Hardware Group #1				
	Interior Doors				

Initial _____

	Interior door #1 offices	2	EA	3068 S.C. 1 3/4" Pre-Finished, w/ 1 3/4" 20 Ga. Timely frame	
	Hardware Group #5				
	Interior door #2 restroom	2	EA	3068 S.C. 1 3/4" Pre-Finished, w/ 1 3/4" 20 Ga. Timely frame	
	Hardware Group #6				
Painting		2	EA	Exterior metal door & frame painting	
Hardware Groups					
	Hardware Group #1	2	EA	Hinges	Hinge 4.5" x 4.5" BB NRP 26D H45 (3/box)
		2	EA	Lever set	Grade 2 Heavy Duty Entry Lever
		2	EA	Exit Device	AL Panic Device Aluminum HD - no dead latch
		2	EA	Closer	Surface Alum. Closer, Grade 1, Size 1-6
		2	EA	Closer Reinforcement	Frame prep for exit device, strike reinforcement
		2	EA	Door Accessory #1	36" Saddle Threshold (ADA Complaints)
		2	EA	Door Accessory #2	36" Door Sweep
		2	EA	Door Accessory #3	3684 Vinyl Weather-strip
		2	EA	Door Accessory #4	Drip Caps 40"
	Hardware Group #5	2	EA	Hinges	Hinge 4.5" x 4.5" BB 26D H45 (3/box)
		2	EA	Lever set	Grade 2 Heavy Duty Entry/Office Lever
		2	EA	Door Accessory #1	Wall Bumper (concave)
	Hardware Group #6	2	EA	Hinges	Hinge 4.5" x 4.5" BB NRP 26D H45 (3/box)
		2	EA	Lever set	Grade 2 Heavy Duty Privacy Lever
		2	EA	Door Accessory #1	Wall Bumper (concave)
Windows	Exterior Windows				
	Exterior Window #1	6	EA	4030 Dual Glazed Vinyl, H.S. Low E	
	Mini-blinds	6	EA	1" aluminum mini blinds	
Electrical	Main Breaker	1	EA	200amp single phase	200AMP 1PH M.C.B. 120/240V 40SPACE NEMA-3R
	Circuit Breakers	6	EA	20 amp Breakers	Plug on Type
		1	EA	30 amp Breakers	Plug on Type
		2	EA	60 amp Breakers	Plug on Type
		8	EA	20 amp Breakers	Bolt on Type
	Receptacles	15	EA	Std duplex receptacle	Plate Color: White
		1	EA	WP GFCI receptacle	Plate Color: White
		3	EA	GFCI receptacle	Plate Color: White
		1	EA	Dedicated receptacle	Plate Color: White
		1	EA	Heat Tape Receptacle	Plate Color: Red
	Lighting	17	EA	LED 2x4 Troffer Light	LED Lighting
		2	EA	Exterior Light	Wall pack LED with Photo cell
		1	EA	Exit Sign	Nicor 18200: Red LED exit sign
		2	EA	Exit /Exterior Emergency Light combo	NICOR ECL110UNVWHR2 with Nicor ERL 3
		4	EA	Triple Pole Switches	Color: White
		7	EA	Single pole switch	Per Spec
	NEMA Inlet Box	1	EA	12 x 12 x 6 NEMA 3R	Brand TBD
	J-Boxes	8	EA	2x4 J-Box for TEL/Data	3/4" EMT conduit stub up to ceiling
		12	EA	Fire alarm ready (Empty boxes only)	3/4" EMT conduit stub up to ceiling
	Wiring			MC Flex Wiring	
	Conduit	200	LF	3/4" EMT conduit Raceway	
	Heat Tape	1	EA	Heat tape (30ft)	
Plumbing	Toilet	2	EA	Water closet ADA P1	AS 3517A.101 Elongated Bowl w/4188B.104 Tank
	Lavatory	2	EA	Lavatory P4/P4A	Per Spec
	Sinks	1	EA	15" Bar Stainless steel sink	K11515-2 2 hole bar sink with XD645EG-CP
	Waste Rough	5	EA	Plumbing Waste Rough (ABS)	goose neck faucet
	Manifold	5	EA	Plumbing manifold (ABS)	
	Water Rough	6	EA	Plumbing Water Rough	
	Hose Bibb	1	EA	Frost Free Hose Bibb	
	Water outlet box	1	EA	Ice maker outlet box	
	Hammer Arrester	1	EA	1" hammer arrester	
	Shut off Valve	1	EA	1" brass shut off valve	
	Shut off Valve	1	EA	3/4" brass shut off valve	
	Water Supply Pipe			PEX	
	ABS Sewer			ABS Sanitary Sewer	

Initial _____

	Cleanout	2	EA	Two-way 3" Cleanout	
	Grab Bars	2	EA	Grab bars set (1) 36" (1) 42"	150S 36" & 48" safety grab bars
		2	EA	Grab bars 18"	150S 18" safety grab bar
	Restroom Accessories	2	EA	Channel Framed Mirror 24x36	Bradley Standard Model 781-2436
		2	EA	Paper Towel Disposal	Model # T1750TBKRD
		2	EA	Stainless Steel Horizontal Soap Dispenser	Model #0347
		2	EA	Toilet paper dispenser single roll	Model #0263
Mechanical					
	Wall mounted AC	2	EA	3 ton single phase with 5kW heat strip	
	Side Mounted AC Bracing	2	EA	AC wall bracing	
	Thermostat	2	EA	7 day Programmable Thermostat	
	Smoke Duct Detector	2	EA	Smoke Duct detectors kit	
				Surf.	
	Metal Duct	1,200.00	SF	Galvanized Metal ductwork	
	Damper	4.00	EA	Fire Damper	
	Air Supply Registers	8.00	EA	24"x24" Supply Registers (Perf. Stamp)	
	Air Return Registers	5.00	EA	24"x24" Return Registers (Perf. Stamp)	
	AC Disconnects and fuses	2.00	EA	Disconnects and fuses	
	Exhaust Fan	2	EA	Exhaust Fan (80 cfm)	
MISCELLANEOUS					
	Extinguisher cabinet	2	EA	With Glass door	
	Fire Extinguisher	2	EA	5# Dry chemical	
	Base Cabinets (ADA)	12	LF	Standard wood, Color TBD	
	Uppers Cabinets	9	LF	Standard wood, Color TBD	
	Laminate countertop	12	LF	25 1/2" laminate countertop	
	Free standing countertop	24	LF	25 1/2" laminate countertop w/corbels	
FIRE PROTECTION					
	Fire Alarm			Rough-in Only	
	Fire Sprinklers			N/A	

Total Building Cost: \$ 230,009.85

CATEGORY	ITEM	QTY	Unit	DESCRIPTION	Remark
ONE TIME FEES					
Delivery & Setup					
	Close Up Material	2.00	EA	Shipping Ready	
	Delivery	2.00	EA	To Chino Valley, AZ	
	Setup	1.00	EA	Above grade installation	
	Mod line Support	6.00	EA		
	Foundation	78.00	EA	Pad & Piers	
	Tie Downs	2.00	EA	Xi2	
	Perimeter skirting	148.00	LF	Skirting to match siding	
	Vents	4.00	EA	Above grade	
	Access door	1.00	EA	Hinged Access door	
Sitework & Utilities					
	Site Preparation			By Others	
Engineering Fees					
	Structural Engineering	1.00	EA	Foundation Engineering Cost	
	Building MEP	1.00	LS	Building Mechanical, Electrical, Plumbing engineering	
	Building Architectural Drawings	1.00	LS	Building Architectural Drawings	
Drawing review and permits					
	State plan Review	1.00	EA	State of AZ Department of housing FBB building and installation drawing review	
	Installation State Permit	148.00	LF	State of AZ FBB installation permit fee	
Stairs & Ramps Installation					
	Ramp (Ramp @ 30")	1.00	EA	30' ramp and 5'x5' deck	
	Stair (Add-a-Step)	1.00	EA		
	Stair (60"x 60" @ 30")	1.00	EA	5'x5' step 30" tall	
	Delivery & Install	1.00	LS		
General Conditions					
	Building clean up	2.00	EA	Building Final Cleaning	
	Travel	1.00	LS	Out of town travel labor	
	Lodging	1.00	LS	Out of town hotel cost	
	Per Diem	1.00	LS	Out of town labor per diem	
	Project Manager	2.00	Week	Overall Project Management	

Initial _____



Modular building contract#: CTR057393
Steel Building contract#: CTR057392

Site Superintendent
Copies/Supplies

2.00 Week On site Superintendent
Documentation

Total One Time Fees: \$ 58,883.80

TAX & BONDING

Total Tax: \$ 19,435.32
Total Bonding: \$ 6,166.58

TOTAL QUOTE PRICE: \$ 314,495.55

DELIVERY & INSTALLATION CLARIFICATIONS

- 1 Client to prepare building pad & provide stake for FF Elevation.
- 2 Installation is based on Client provided building pad.
- 3 Installation is based on a level, clear, and accessible site on dirt. Additional costs will be incurred for asphalt or concrete surfaces.
- 4 The foundation design is based on a level elevation.
- 5 Flood plain sites will require additional engineering and additional costs will be incurred.
- 6 Pricing excludes excavation & backfill; this is to be done by client.
- 7 Delivery does NOT include DPS Escort Fees, if required, extra charge will incur.
- 8 Delivery is based on unencumbered clear roads, weather, construction, and any detours may increase delivery price.

PROJECT CLARIFICATIONS

- 1 Pricing is valid for 10 day from submittal and subject to revision.
- 2 Manufacture lead time TBD after award.
- 3 Standard hours and wages included. No provisions for overtime or prevailing wages.
- 4 No site work or utility connections included in this quote; these to be done by Client.
- 5 Main plumbing manifold parts are included as ship loose - to be installed by client when doing utilities connection.
- 6 Electrical scope includes sub panels only - all tie-ins by client.
- 7 Tires & Axles are to be returned to vendor upon installation.
- 8 Fire alarm system not included at this time, only rough-in included.
- 9 Fire sprinkler is not included in this quote.
- 10 No provisions for fire rating have been provided in this building.
- 11 If fire rating is required due to setbacks / vicinity, additional fees will result.
- 12 Quote includes (2) weeks on site superintendent for setup and finish up work on site, if delays due to out of control reason, or client, \$2,325 per week will be
- 13 Painting for exterior and interior, only includes one color each, if extra colors are chosen extra fees will apply.
- 14 Project bid to the State of "Arizona Office of Manufactured Housing" requirements: IBC 2018.
- 15 Modular Solutions assumes the minimum required distance from any and all assumed and / or common property lines.
- 16 One Year limited warranty on purchase of new modular building.
- 17 Tax included based on current (10.35) tax rate.
- 18 No bond included at this quote, if required, add 2% on the total amount.
- 19 State installation permit and plan review fees are included. (3) time max installation inspections are included, failure due to customer, every time will charge \$250.
- 20 Customer is responsible for site plan, one line electrical, restroom justification, and all city and local permits.
- 21 Customer to provide one line electrical diagram with fault current calculation.
- 22 Surveying, staking and soils report, and civil engineering are not included in this quote.
- 23 Due to energy code requirements, changes may be required and additional costs may be incurred.
- 24 Utility development fees not included, I.E.: Power Company, Water & Sewer Authority.
- 25 **PAYMENT TERMS:** 10% to start design and engineering, 45% online, 35% offline, and 10% upon completion of installation.
- 26 **EXCLUSIONS:** Please read quote carefully. If an item has not been listed, no provisions have been made for the item.
- 27 A party shall not be held liable for failure of or delay in performing its obligations under this agreement if such failure or delay is the result of an act of God, such as earthquake, hurricane, tornado, flooding, or other natural disaster, or in the case of war, action of foreign enemies, terrorist activities, pandemic, labor dispute or strike, government sanction, blockage, embargo, or failure of electrical service. The non-performing party must make every reasonable attempt to minimize delay of performance. Where a Force Majeure event gives rise to a failure or delay in either party performing its obligations under this agreement (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure event.
- 28 Our material pricing is based on the material at today's pricing. No price escalation is figured in the proposal price. Additional pricing may be required due to the volatility of the market, and our inability to lock in pricing until we order material.

Accepted by: _____ Title: _____ Date: _____ Signature: _____

Initial _____



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

6. c.

Meeting Date: 08/22/2023
Contact Person: Will Dingee, Assistant Development Services Director
Department: Development Services
Estimated length of staff presentation: 5 minutes
Physical location of item: 306-20-035A

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve a conditional use permit for Stor-It Arizona, LLC, for a mini-storage with a commercial retail component on a parcel zoned commercial light, located approximately a quarter mile north of the northeast corner of State Route 89 and Road 2 North, Chino Valley, Arizona (306-20-035A).

RECOMMENDED ACTION:

- i) Hold a Public Hearing
- ii) Approve CUP-2023-03.

Fiscal Impact

Fiscal Impact?: N/A
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Staff Report w/ Attachments



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM #	3785	☒ Ordinance
MEETING DATE:	August 22, 2023	☐ Resolution
CONTACT PERSON:	Will Dingee, Assistant Director - Development Services	☒ Public Hearing
		☐ Contract/IGA/PSA

Case/Project Description:

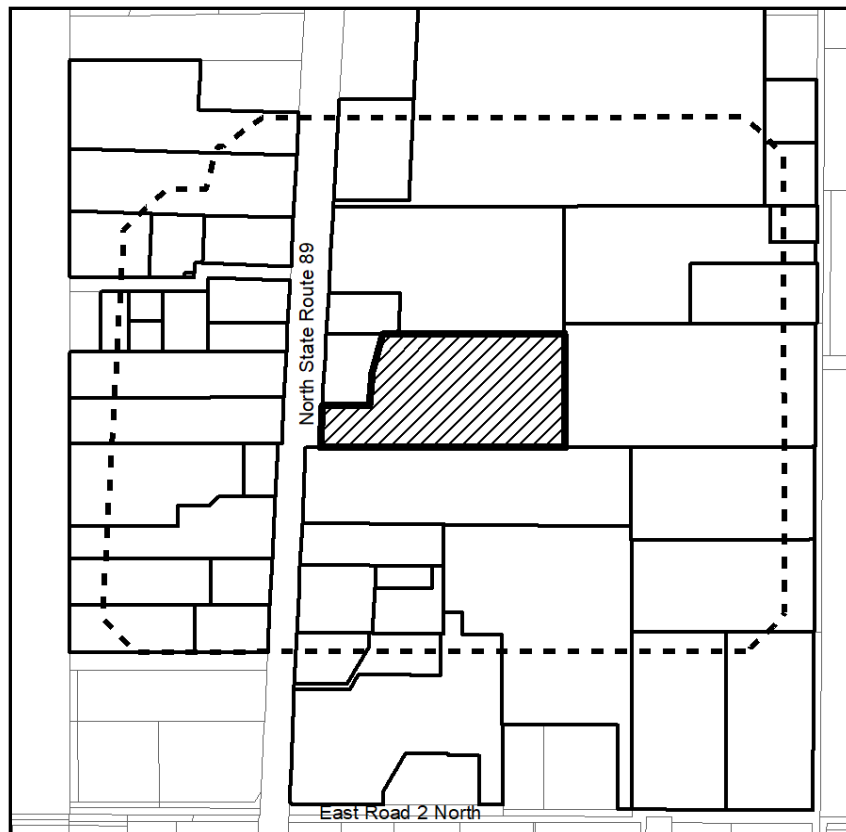
This is a request by Brian Greathouse, on behalf of Stor-It Arizona LLC, for a Conditional Use Permit for a Mini-Storage with a Commercial Retail Component, on a parcel zoned Commercial Light (CL). The property is located on the east side of State Route 89, approximately a quarter mile north of the intersection of State Route 89 and Road 2 North, Chino Valley, Arizona.

Planning and Zoning Recommended Action

The Planning Commission forwarded a recommendation of approval with a 7-0 Vote.

See Attachment 1 for the Conditions of Approval

Location Map:



Location Data:

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Commercial Light (CL)	Vacant	Multifamily/Commercial & Future Community Core
North	Commercial Light (CL) & Commercial Heavy Agricultural Residential 5 Acre (CH/AR-5)	Mary's Furniture, Federwisch Auto sales & Rodgers Automotive	Multifamily/Commercial
South	Commercial Light Agricultural Residential 5 Acre (CL/AR-5)	Residential Agricultural	Future Community Core
East	Commercial Light (CL)	Vacant Land	Multifamily/Commercial & Future Community Core
West	Commercial Light (CL)	Existing Stor-It Ministorage	Future Community Core

Neighborhood Meeting:

A neighborhood meeting was held at the Chino Valley Council Chambers, June 29, 2023. No neighbors or members of the public attended.

Additional Public Comment:

See Attachment 2 for a detailed dialog from the P&Z Meeting.

See Attachment 3 for letter(s) received from the public. (the received letter references a different property)

FISCAL IMPACT?

N/A

Attachments

Attachment 1 – Conditions

Attachment 2 – P&Z Minutes

Attachment 3 – Public Letter(s)

Attachment 4 – P&Z Staff Report

**Attachment 1
Conditions of Approval
CUP-2023-03
Town Council
August 22, 2023**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed conditional use for the site:

Development Services Comments: Laurie Lineberry, Director, 928 636-3471

3. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
4. The Owner shall sign a Waiver of Claims form, which the Town will provide and record with the Yavapai County Recorder's Office, prior to the conditional use permit being heard by the Town Council.

Will Dingee, Assistant Director, 928 636-3472

5. The development shall conform to the applicant supplied site plan, landscape plan and building elevations. Any significant deviations to the plan will require the CUP to be amended by the Town Council.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

Attachment 2
Minutes - P&Z August 1, 2023
CUP-2023-03
Town Council
August 22, 2023

PUBLIC HEARING #D.1 – Case# CUP-2023-03 – *This is a request by Brian Greathouse, on behalf of Stor It Arizona LLC, for a Conditional Use Permit for a Mini-Storage with a commercial component, on a parcel zoned Commercial Light (CL). The property is located on the east side of State Route 89, approximately a quarter mile north of the intersection of State Route 89 and Road 2 North, Chino Valley, Arizona.*

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. There were none.

Assistant Director **Will Dingee** presented the staff report with a recommendation of approval. He stated he had received one letter of opposition, and that the letter of opposition was for a different property, not the one identified for this project.

Chair Merritt restated that the opposition letter was not for this case. He added that this project was similar to the storage/retail use proposed on the site near Olsen's Grain. **Dingee** shared that this project has unique architectural style for the area, as required by the 2014 General Plan.

Madison Leake, project representative, wanted to express her thanks to staff for their dedication to this project, which has been on-going for about two years.

Merritt opened the meeting for public comments.

Larry Holt shared that he believed that an individual has the right to develop their land. He expressed concern about all the storage facilities and the proliferation of storage building sales within the Town and felt that they did not make Chino Valley look rural, but rather, made the town look like a slum. He questioned whether these businesses were doing any type of market research since they would be competing with all the other storage businesses in town. He felt the whole town was just going to be storage businesses.

There were no other comments from the public and **Merritt** closed the public hearing.

Zamudio asked how many storage facilities were currently in the town. **Dingee** believed that were about seven established storage facilities including this proposed one. **Dingee** shared that a public records request was recently made by a mini storage company, inquiring about the number of existing and proposed facilities within the Town. **Merritt** asked if that information could be used for other people if they were deciding whether to build a similar facility in Town. **Dingee** stated that it could. **Penn** asked how many units this project would have. **Dingee** responded in terms of square footage, approximately 63,350 in the first phase, and referred the question on number of units to the applicant.

Vice-Chair Pasciak mentioned that in the report there was discussion of a well and mentioned the City of Prescott Water line in the right-of-way. **Dingee** responded that staff cannot stipulate any connection to the City of Prescott water. That decision would be at the developers' discretion. **Switzer** asked if the water usage would only be for landscaping and on-site restroom. **Leake** stated that was correct and the development would have a low water usage. **Switzer** asked if there was outdoor type RV storage behind the units. **Leake** responded that there was no outdoor storage in this facility. They were only proposing storage units. **Merritt** mentioned that the title of this case mentions Mini & RV Storage. **Dingee** stated that a CUP allows for both, however this project is just mini-storage. **Merritt** asked if this project was similar to the one they own, across the street. **Leake** shared that this includes more modern architecture and the office component. **Merritt** added that the water from City of Prescott comes from

Chino Valley. **Zamudio** asked if the project across the street was also owned by them. **Leake** answered yes, and the current business was close to 100% occupancy so there was a demand for storage.

Merritt closed the public hearing.

Motion was made by Switzer, seconded by Meadors to approve CUP-2023-03, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A. A roll-call vote was taken and the motion passed with a 7-0 vote. No explanations of the votes were requested by the Chair

**Attachment 3
Letter(s) from the Public
CUP-2023-03
Town Council
August 22, 2023**

July 24, 2023

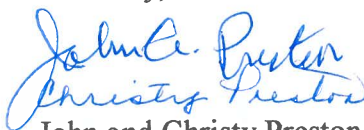
Town of Chino Valley Planning & Zoning Commission

Re: Case # CUP-2023-03

Dear Commission Members,

In spite of the fact that we have empathy for anyone trying to supplement their income during this time of economic challenge, we have concerns about the development of a mini- storage and RV storage facility with a commercial retail component in this residential area. We have lived on this street for over 40 years, and during that time have watched it grow into a quiet, well-maintained middle-class neighborhood. There is an especially large beautiful home on the south side adjacent to the property being discussed. The property in question has been adding a variety of Conex boxes and vehicles, buses, trailers, and motor homes/campers/fifth wheels, motorcycles, etc. Some are located at the back of the property and others are located around the main dwelling. It appears that people are living in several of those in the front of the property, including a very cute and well-kept tiny house. Little by little, more have been added, and our fear is that ultimately the entire property will be filled with more of the same. People have come up to us on several occasions and asked what is going on at this site because it is looking "junky", and we have heard several rumors about this little community, ranging from being a group of "preppers" to being a substance abuse rehab center! This acreage, being utilized as it is now and continuing to grow, will no doubt lower the value of the properties all around it. As we understand it, several town ordinances are being broken at present. If so, the town needs to be consistent in the enforcement of its codes throughout. Most storage facilities have matching units and the RVs are neatly organized and don't include old buses. This just looks like a hodge-podge of old junk. Most people have a few odd vehicles or trailers parked at the back of their lots. No one expects everyone's property to look pristine. However, an entire parcel filled with such a variety of old vehicles and Conex boxes does not belong in a residential neighborhood. If you haven't already done so, please go look at the area in question from all angles and try to think of it from a nearby homeowner's point of view. Thank you for your honest evaluation of this situation.

Sincerely,



John and Christy Preston
1350 N. Rd. 1 East

Attachment 4
Staff Report – P&Z August 1, 2023
CUP-2023-03
Town Council
August 22, 2023



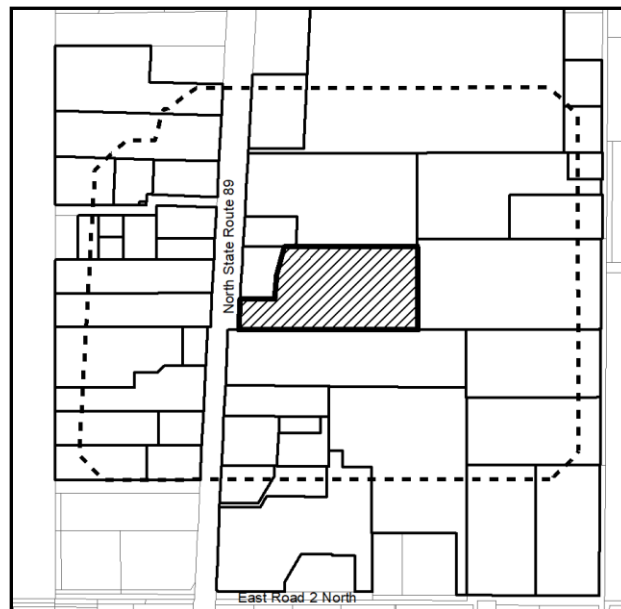
TOWN OF CHINO VALLEY
Planning Commission Staff Report
July 12, 2023
File Number CUP-2023-03
Conditional Use Permit

PROJECT DESCRIPTION

This is a request by Brian Greathouse, on behalf of Stor-It Arizona LLC, for a Conditional Use Permit for a Mini-Storage with a Commercial Retail Component, on a parcel zoned Commercial Light (CL). The property is located on the east side of State Route 89, approximately a quarter mile north of the intersection of State Route 89 and Road 2 North, Chino Valley, Arizona.

LOCATION DATA

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Commercial Light (CL)	Vacant	Multifamily/Commercial & Future Community Core
North	Commercial Light (CL) & Commercial Heavy Agricultural Residential 5 Acre (CH/AR-5)	Mary's Furniture, Federwisch Auto sales & Rodgers Automotive	Multifamily/Commercial
South	Commercial Light Agricultural Residential 5 Acre (CL/AR-5)	Residential Agricultural	Future Community Core
East	Commercial Light (CL)	Vacant Land	Multifamily/Commercial & Future Community Core
West	Commercial Light (CL)	Existing Stor-It Ministorage	Future Community Core

LOCATION MAP


Case #CUP-2023-03

August 1, 2023

Page 1 of 19

PRIOR SITE ACTIONS:	Rezone – Ordinance 15-1793 - AR-5 to CL - February 24, 2015.
STAFF RECOMMENDATION:	Staff recommends that the Planning and Zoning Commission forward to the Town Council a recommendation of APPROVAL for the Stor-It Conditional Use Permit for a mini storage facility with the Conditions of Approval found in Attachment A.
SUGGESTED MOTION:	Move to APPROVE Conditional Use Permit CUP-2023-03 as presented, subject to the staff report and information provided during this hearing, and the Conditions of Approval in Attachment A
EFFECT OF THE APPROVAL:	By approving this Conditional Use Permit, the Planning and Zoning Commission is recommending approval to Town Council for the Stor-It Conditional Use Permit, located on the east side of State Route 89, approximately a quarter mile north of the intersection of State Route 89 and Road 2 North, subject to the staff report and information provided during this hearing, and affirmatively finds that the request is in conformance with the previously approved zoning on the parcel.

Staff Analysis:

The developer and staff have been in discussions regarding this project since April of 2021. This project is an expansion to their existing mini storage facility directly west of this site,. Currently zoned Commercial Light (CL) and designated as part of a Future Community Core by the 2014 General Plan, the Subject Property is seven acres in size and has direct access off N. State Route 89. The development has two phases: Phase 1 contains approximately 68,000 square feet of storage and Phase 2 contains approximately 52,000 square feet of storage. It will have a mixture of both air-conditioned and drive-up units that will range in size from 25 to 400 square feet.

For this project to be compatible with the 2014 General Plan, the developer will be constructing approximately 2,000 square feet of Office/Flex space on the western most portion of the property that fronts N. State Route 89. This space is intended to have four individual units with common restroom facilities. In addition to this, the development will share a modern architecture style that closely resembles the newly constructed Police Station.

The perimeter of the development will be completely landscaped at a level that exceeds the minimum zoning code requirements. Between the landscaping and the storage buildings will be a concrete masonry unit wall that will screen and keep the site secure. Both elements will help mitigate the impact(s) to the surrounding property owners.

See Attachment C for the applicant's supplied narrative, site plan, landscape plan and building elevations.

Conditional Use Permit

The Commercial Light Zoning District, section 3.15.C.12, allows for mini-storage facilities as a conditional use, subject to discretionary approval by Council if the location and development of the site is suitable for the requested use.

PUBLIC COMMENTS RECEIVED: No public comments were received.

EXTERNAL AGENCY COMMENTS: No external Agency Comments were received

NEIGHBORHOOD MEETING COMMENTS: See Attachment B

PROPOSED CONDITIONS DELIVERED July 12, 2023
TO APPLICANT ON:

X	Applicant agreed with all of the conditions of approval on July 12, 2023
	Applicant did not agree with the following conditions of approval: (list #'s)
	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

ATTACHMENTS:

A	B	C	D
Conditions of Approval	Neighborhood Meeting Comments	Applicant Supplied Documents	Staff Research

PREPARED BY:

DATE:

WILL DINGEE, ASSISTANT DIRECTOR
 WDINGEE@CHINOAZ.NET
 928 636-3472

JULY 12, 2023

APPROVED BY:

LAURIE LINEBERRY, AICP
 DEVELOPMENT SERVICES DIRECTOR

ATTACHMENT A CONDITIONS OF APPROVAL
--

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed conditional use for the site:

Development Services Comments: Laurie Lineberry, Director, 928 636-3471

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner shall sign a Waiver of Claims form, which the Town will provide and record with the Yavapai County Recorder's Office, prior to the conditional use permit being heard by the Town Council.

Will Dingee, Assistant Director, 928 636-3472

3. The development shall conform to the applicant supplied site plan, landscape plan and building elevations. Any significant deviations to the plan will require the CUP to be amended by the Town Council.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
NEIGHBORHOOD MEETING COMMENTS

DATE MEETING HELD: JUNE 29, 2023

LOCATION: CHINO VALLEY TOWN HALL COUNCIL CHAMBERS – 202 NORTH STATE ROUTE 89

ATTENDEES:

AGENT/DEVELOPER: TIM JONES – STOR-IT ARIZONA, LLC; PHILIP GOLLON – ARC SERVICES; MADISON LEAK – BURCH & CRACCHIOLO; BRIAN GREATHOUSE – BURCH & CRACCHIOLO; LESLI CHATBURN – BURCH & CRACCHIOLO.

TOWN STAFF: WILL DINGEE, ASSISTANT DIRECTOR.

No neighbors or interested parties attended the neighborhood meeting.

ATTACHMENT C

APPLICANT SUPPLIED DOCUMENTS



BRIAN GREATHOUSE
DIRECT LINE: 602-234-9903
EMAIL: BGREATHOUSE@BCATTORNEYS.COM

MADISON LEAKE
DIRECT LINE: 602-234-8791
EMAIL: MLEAKE@BCATTORNEYS.COM

APRIL 4, 2023

Town of Chino Valley
Development Services Department
1982 N. Voss Drive #203
Chino Valley, AZ 86323

RE: Stor-It Arizona
N and E of the NEC of North State Route 89 and East Road 2 North
Conditional Use Permit for Self-Storage and Site Plan Review

On behalf of Stor-It Arizona ("Stor-It"), we request a Conditional Use Permit and Site Plan Review for a self-storage facility that is planned on approximately 6.99 gross acres located north of the NEC of North State Route 89 and East Road 2 North, APN 306-20-035A (the "Site"). A Regional Aerial Map is provided at **Exhibit 1**. The Site is currently vacant.

Requests:

1. Conditional Use Permit to allow self-storage in the Commercial Light (CL) Zoning District. Chino Valley Zoning Ordinance Section 1.9.3.
2. Site Plan Approval. Chino Valley Zoning Ordinance Section 1.9.1.

Property Description

The approximately 6.99-acre Site is currently zoned CL for commercial uses. The property to the north is zoned CH/AR-5 with an existing an auto repair shop, automotive sales, and a residential home zoned CH/AR-5. To the south is an equipment rental agency and vacant land zoned CL/AR-5. To the west is N State Route 89 and a furniture store zoned CL. The property to the east is zoned CL and is vacant.

Proposal and Site Plan

Stor-It's proposed facility will provide a mix of office/flex space, indoor air-conditioned self-storage units, and drive-up storage units. The storage units will range in size from 25 square feet to 400 square feet. See **Exhibit 2** Site Plan. Ingress and egress will be located on the west side

Burch & Cracchiolo, P.A.
1850 N. Central Avenue, Suite 1700
Phoenix, AZ 85004

Main Office: 602.274.7611
Fax: 602.234.0341

ATTACHMENT C

APPLICANT SUPPLIED DOCUMENTS

April 4, 2023

Page | 2

of the Site, off of North State Route 89. Customers and employees can park in the 12 parking spaces conveniently located near the entrance. The self-storage which will have approximately 20 parallel loading spaces. The office/flex space will be situated at the southwest corner of the Site, near the entrance. This will provide additional security and control of cars and individuals entering the storage facility. An additional office space will be situated just east of the office/flex space.

Stor-It proposes two phases. Phase 1 will include the office and flex space as well as self-storage. Phase 2 (the eastern portion of the Site) will include additional drive-up and air-conditioned self-storage. Phase 1 proposes approximately 68,350 square feet of storage, and phase 2 proposes approximately 52,150 square feet of storage.

Stor-It's storage facility will be well screened and buffered from the surrounding properties and streets. The Site has been thoughtfully designed with the storage portion of the Site set back over 200 feet from North State Route 89. In addition to the thoughtful design incorporating the drive-up storage surrounding the centralized indoor air-conditioned storage units, the entire Site will be screened by a large, minimum 10-foot landscape buffer. See **Exhibit 3**, Landscape Plan.

Stor-It has been designed to be an attractive presence in the area and fit the character of the area. See **Exhibit 4**, Elevations. Building elevations include a variety of materials, including CMU and metal, as well as variety in height and projections to help break up the massing of buildings. Colors include a variety of neutral grey and beige tones with the addition of a red shade to create visual interest.

Criteria for Conditional Use Permits

Pursuant to Section 1.9.3 of the Chino Valley Zoning Ordinance, Conditional Use Permits may be granted only when expressly permitted, and only after the Commission has made a recommendation, and Council has approved the request by motion based upon a finding that the authorizing of the Use Permit: (1) will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and (2) that the proposed use is reasonably compatible with uses permitted in the surrounding area.

This request meets the criteria as follows:

1. *The use as self-storage will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare.*

Rather than being detrimental to the neighborhood, area, or public welfare, Stor-It will have a positive impact on the community and its residents. The facility will be a quiet neighbor, with proposed operating hours Tuesday to Saturday 10 am to 5 pm. Storage facilities are very low-traffic generating uses and Stor-It will be sufficiently screened from neighboring properties.

Furthermore, Stor-It is an experienced, quality company that maintains high standards related to the maintenance of its buildings, equipment, facility cleanliness, and operations. Stor-It ownership currently operates a facility near the Site and is already a positive impact on the

ATTACHMENT C
APPLICANT SUPPLIED DOCUMENTS



April 4, 2023

Page | 3

community. Finally, development of vacant land will improve the Site and reduce potential concerns of vagrancy and vandalism of the existing vacant land. Therefore, Stor-It will improve and increase the safety of the area while being a good neighbor and asset to the area.

2. *The proposed storage use is reasonably compatible with uses permitted in the surrounding area.*

The Site is zoned CL for commercial uses and is surrounded by other CL and CH zoned sites. Self-storage, a commercial use, is fitting with the uses in the surrounding area. Existing surrounding uses include auto repair, auto sales, and an equipment rental agency. These uses are compatible with self-storage and this quiet and low traffic use will not negatively impact those surrounding uses. Taken as a whole, not only will Stor-It improve the area further by developing an underutilized, vacant site, but it will also provide a necessary commercial service to the area's residents.

We request approval of the above-described Conditional Use Permit and Site Plan Review. If you have questions or want to discuss any of the above, please contact Brian Greathouse (602-234-9903) or Madison Leake (602-234-8791).

Thank you.

Very truly yours,

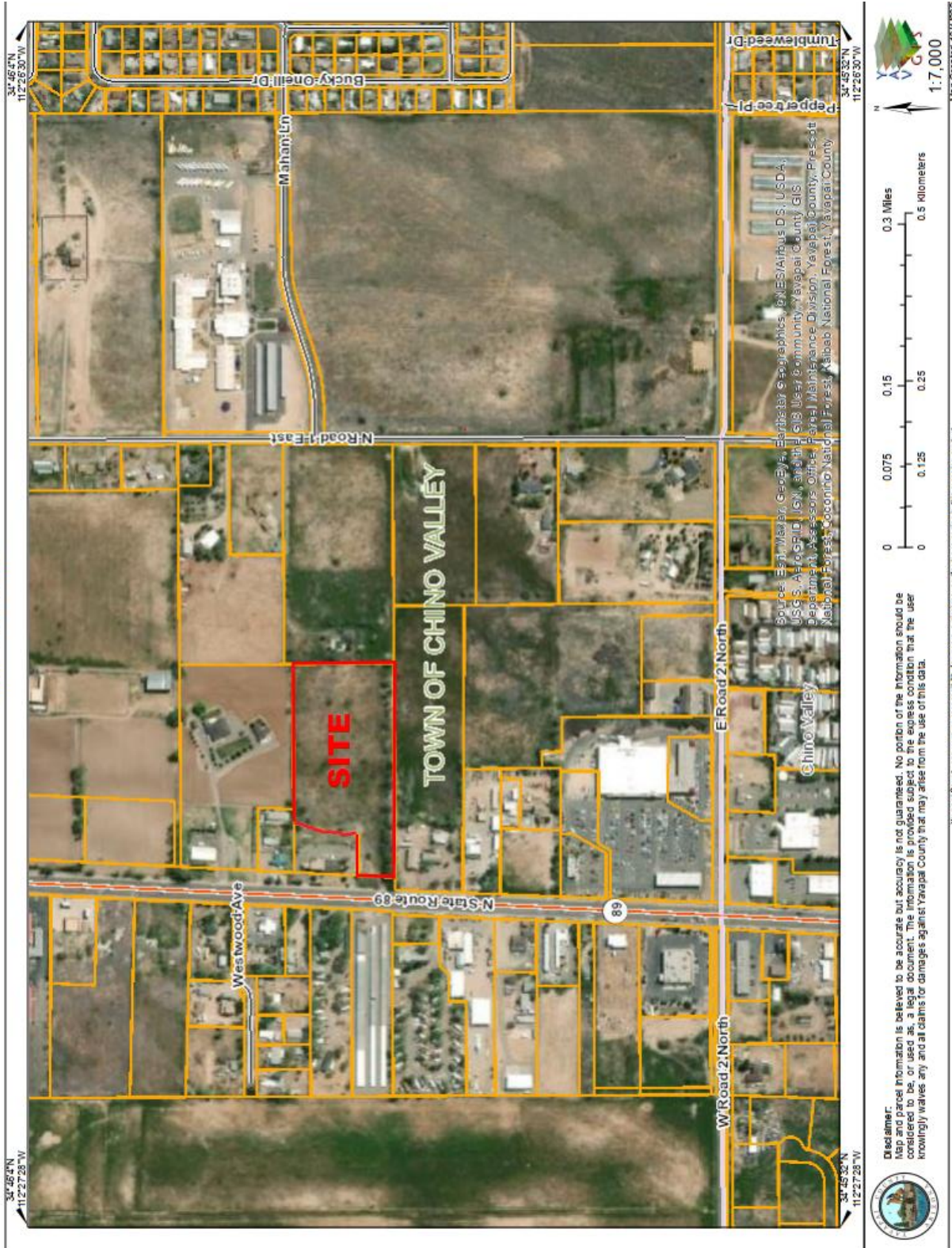
BURCH & CRACCHIOLO, P.A.



Brian Greathouse
Madison Leake
For the Firm

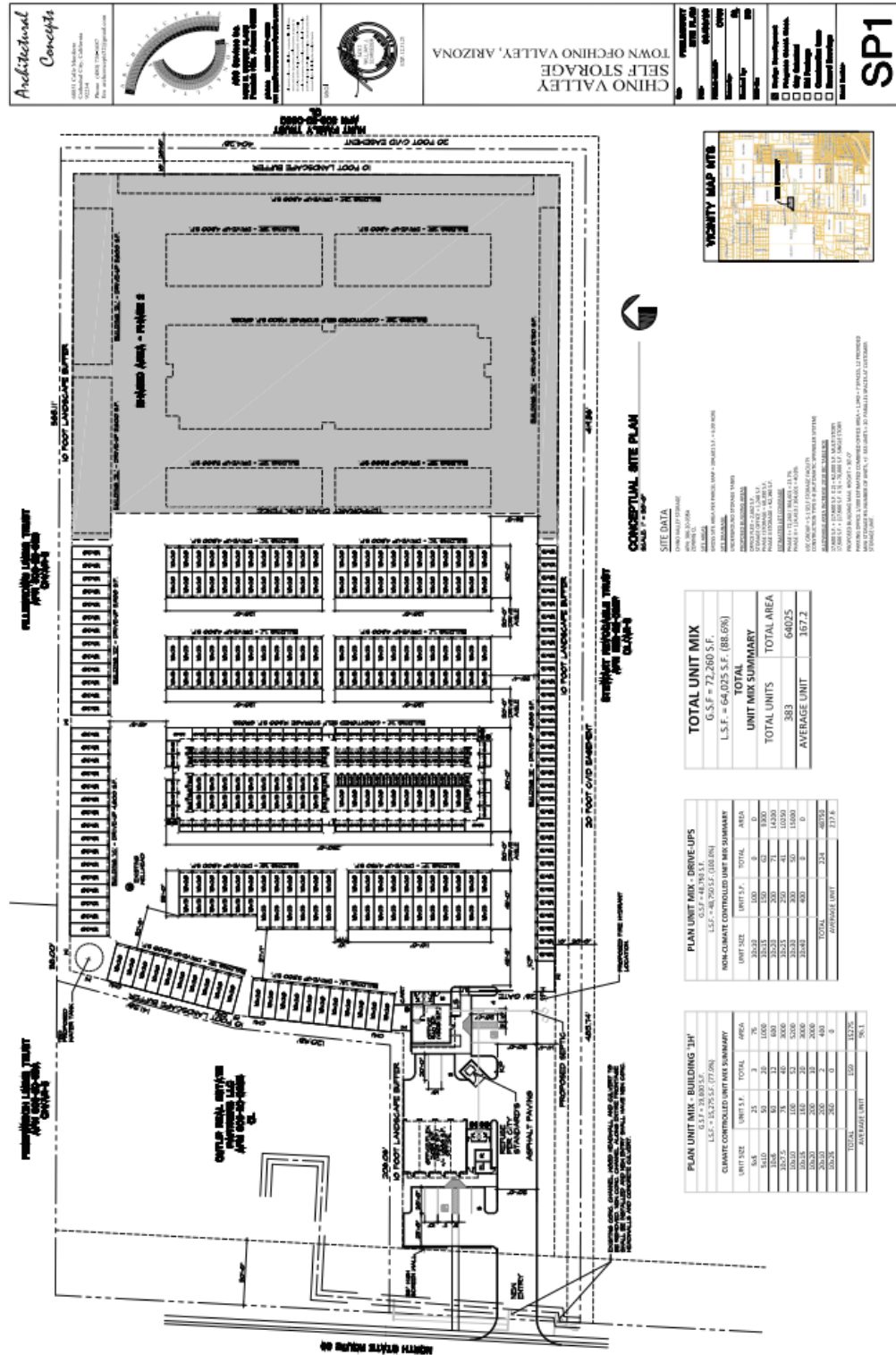
ATTACHMENT C
APPLICANT SUPPLIED DOCUMENTS

EXHIBIT 1 – Regional Aerial Map



ATTACHMENT C APPLICANT SUPPLIED DOCUMENTS

EXHIBIT 2 – Site Plan



[illegible]

PLANT SCHEDULE		DATE	SIZE
	ROSEMARY COMMON NAME	15 gal.	20
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	15 gal.	11
	Aster sp.		
	Quercus laevis 'Pend'	15 gal.	20
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	15 gal.	4
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	15 gal.	3
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	15 gal.	37
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	15 gal.	3
	Quercus laevis 'Pend'		
	ROSEMARY COMMON NAME	DATE	SIZE
	Quercus laevis 'Pend'	5 gal.	85
	Quercus laevis 'Pend'	5 gal.	105
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	10
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	20
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	1 gal.	6
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	10
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	20
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	15
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	85
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	10
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	5 gal.	85
	Quercus laevis 'Pend'		
	Quercus laevis 'Pend'	1 gal.	9
	Quercus laevis 'Pend'		

The figure displays three architectural elevations of the Chino Valley Self Storage facility, along with a material schedule and project information.

North Office Elevation: Shows the front facade of the building with a central entrance featuring a large glass door and windows. The facade is primarily light-colored with dark horizontal accents. A small sign is visible above the entrance.

East Office Elevation: Shows the side profile of the building, featuring a long, low structure with a flat roof and a series of windows. A small sign is visible on the side.

West Office Elevation: Shows the rear facade of the building, featuring a large glass door and windows. The facade is primarily light-colored with dark horizontal accents. A small sign is visible above the entrance.

Material Schedule: A table listing materials and their quantities for the project.

Material	Quantity
1. 1/2" x 6" x 8' SIPS	100
2. 1/2" x 6" x 8' SIPS	100
3. 1/2" x 6" x 8' SIPS	100
4. 1/2" x 6" x 8' SIPS	100
5. 1/2" x 6" x 8' SIPS	100
6. 1/2" x 6" x 8' SIPS	100
7. 1/2" x 6" x 8' SIPS	100
8. 1/2" x 6" x 8' SIPS	100
9. 1/2" x 6" x 8' SIPS	100
10. 1/2" x 6" x 8' SIPS	100
11. 1/2" x 6" x 8' SIPS	100
12. 1/2" x 6" x 8' SIPS	100
13. 1/2" x 6" x 8' SIPS	100
14. 1/2" x 6" x 8' SIPS	100
15. 1/2" x 6" x 8' SIPS	100
16. 1/2" x 6" x 8' SIPS	100
17. 1/2" x 6" x 8' SIPS	100
18. 1/2" x 6" x 8' SIPS	100
19. 1/2" x 6" x 8' SIPS	100
20. 1/2" x 6" x 8' SIPS	100
21. 1/2" x 6" x 8' SIPS	100
22. 1/2" x 6" x 8' SIPS	100
23. 1/2" x 6" x 8' SIPS	100
24. 1/2" x 6" x 8' SIPS	100
25. 1/2" x 6" x 8' SIPS	100
26. 1/2" x 6" x 8' SIPS	100
27. 1/2" x 6" x 8' SIPS	100
28. 1/2" x 6" x 8' SIPS	100
29. 1/2" x 6" x 8' SIPS	100
30. 1/2" x 6" x 8' SIPS	100
31. 1/2" x 6" x 8' SIPS	100
32. 1/2" x 6" x 8' SIPS	100
33. 1/2" x 6" x 8' SIPS	100
34. 1/2" x 6" x 8' SIPS	100
35. 1/2" x 6" x 8' SIPS	100
36. 1/2" x 6" x 8' SIPS	100
37. 1/2" x 6" x 8' SIPS	100
38. 1/2" x 6" x 8' SIPS	100
39. 1/2" x 6" x 8' SIPS	100
40. 1/2" x 6" x 8' SIPS	100
41. 1/2" x 6" x 8' SIPS	100
42. 1/2" x 6" x 8' SIPS	100
43. 1/2" x 6" x 8' SIPS	100
44. 1/2" x 6" x 8' SIPS	100
45. 1/2" x 6" x 8' SIPS	100
46. 1/2" x 6" x 8' SIPS	100
47. 1/2" x 6" x 8' SIPS	100
48. 1/2" x 6" x 8' SIPS	100
49. 1/2" x 6" x 8' SIPS	100
50. 1/2" x 6" x 8' SIPS	100
51. 1/2" x 6" x 8' SIPS	100
52. 1/2" x 6" x 8' SIPS	100
53. 1/2" x 6" x 8' SIPS	100
54. 1/2" x 6" x 8' SIPS	100
55. 1/2" x 6" x 8' SIPS	100
56. 1/2" x 6" x 8' SIPS	100
57. 1/2" x 6" x 8' SIPS	100
58. 1/2" x 6" x 8' SIPS	100
59. 1/2" x 6" x 8' SIPS	100
60. 1/2" x 6" x 8' SIPS	100
61. 1/2" x 6" x 8' SIPS	100
62. 1/2" x 6" x 8' SIPS	100
63. 1/2" x 6" x 8' SIPS	100
64. 1/2" x 6" x 8' SIPS	100
65. 1/2" x 6" x 8' SIPS	100
66. 1/2" x 6" x 8' SIPS	100
67. 1/2" x 6" x 8' SIPS	100
68. 1/2" x 6" x 8' SIPS	100
69. 1/2" x 6" x 8' SIPS	100
70. 1/2" x 6" x 8' SIPS	100
71. 1/2" x 6" x 8' SIPS	100
72. 1/2" x 6" x 8' SIPS	100
73. 1/2" x 6" x 8' SIPS	100
74. 1/2" x 6" x 8' SIPS	100
75. 1/2" x 6" x 8' SIPS	100
76. 1/2" x 6" x 8' SIPS	100
77. 1/2" x 6" x 8' SIPS	100
78. 1/2" x 6" x 8' SIPS	100
79. 1/2" x 6" x 8' SIPS	100
80. 1/2" x 6" x 8' SIPS	100
81. 1/2" x 6" x 8' SIPS	100
82. 1/2" x 6" x 8' SIPS	100
83. 1/2" x 6" x 8' SIPS	100
84. 1/2" x 6" x 8' SIPS	100
85. 1/2" x 6" x 8' SIPS	100
86. 1/2" x 6" x 8' SIPS	100
87. 1/2" x 6" x 8' SIPS	100
88. 1/2" x 6" x 8' SIPS	100
89. 1/2" x 6" x 8' SIPS	100
90. 1/2" x 6" x 8' SIPS	100
91. 1/2" x 6" x 8' SIPS	100
92. 1/2" x 6" x 8' SIPS	100
93. 1/2" x 6" x 8' SIPS	100
94. 1/2" x 6" x 8' SIPS	100
95. 1/2" x 6" x 8' SIPS	100

Architectural Concepts
 14001 City Boulevard
 Colorado City, California
 Phone: (800) 724-1447
 Fax: (800) 724-1447
 Website: www.architecturalconcepts.com

ARC Service Inc.
 14001 City Boulevard
 Colorado City, California
 Phone: (800) 724-1447
 Fax: (800) 724-1447
 Website: www.arc-service.com

Chino Valley Self Storage
 14001 City Boulevard
 Colorado City, California
 Phone: (800) 724-1447
 Fax: (800) 724-1447
 Website: www.chinovalleystorage.com

DD2

TYPICAL INTERIOR DRIVE UP ELEVATION

TYPICAL EXTERIOR FACING SR 89

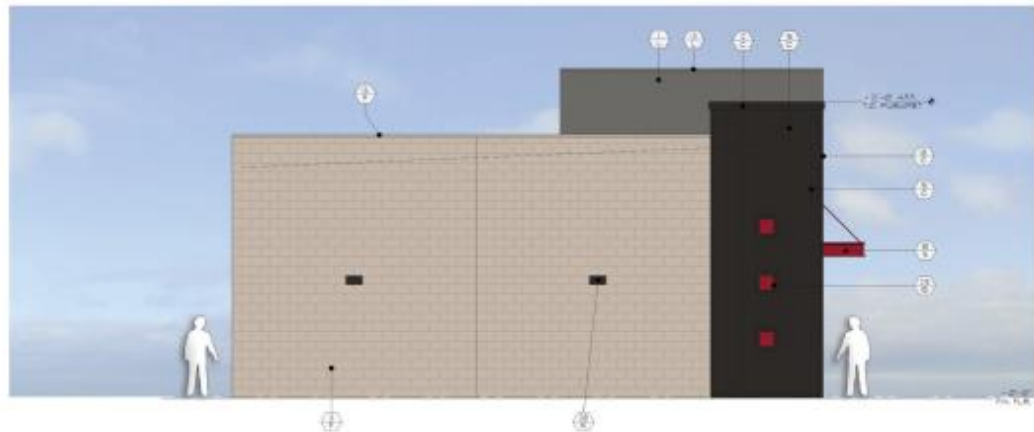
TYPICAL EXTERIOR FACING NORTH, SOUTH AND EAST

MATERIALS		FINISH/COLORS	
1. EXTERIOR WALLS	1. EXTERIOR WALLS	1. EXTERIOR WALLS	1. EXTERIOR WALLS
2. EXTERIOR ROOF	2. EXTERIOR ROOF	2. EXTERIOR ROOF	2. EXTERIOR ROOF
3. EXTERIOR FLOORING	3. EXTERIOR FLOORING	3. EXTERIOR FLOORING	3. EXTERIOR FLOORING
4. EXTERIOR PAINT	4. EXTERIOR PAINT	4. EXTERIOR PAINT	4. EXTERIOR PAINT
5. EXTERIOR LIGHTING	5. EXTERIOR LIGHTING	5. EXTERIOR LIGHTING	5. EXTERIOR LIGHTING
6. EXTERIOR VENTILATION	6. EXTERIOR VENTILATION	6. EXTERIOR VENTILATION	6. EXTERIOR VENTILATION
7. EXTERIOR SECURITY	7. EXTERIOR SECURITY	7. EXTERIOR SECURITY	7. EXTERIOR SECURITY
8. EXTERIOR ACCESSORIES	8. EXTERIOR ACCESSORIES	8. EXTERIOR ACCESSORIES	8. EXTERIOR ACCESSORIES
9. EXTERIOR UTILITIES	9. EXTERIOR UTILITIES	9. EXTERIOR UTILITIES	9. EXTERIOR UTILITIES
10. EXTERIOR MAINTENANCE	10. EXTERIOR MAINTENANCE	10. EXTERIOR MAINTENANCE	10. EXTERIOR MAINTENANCE

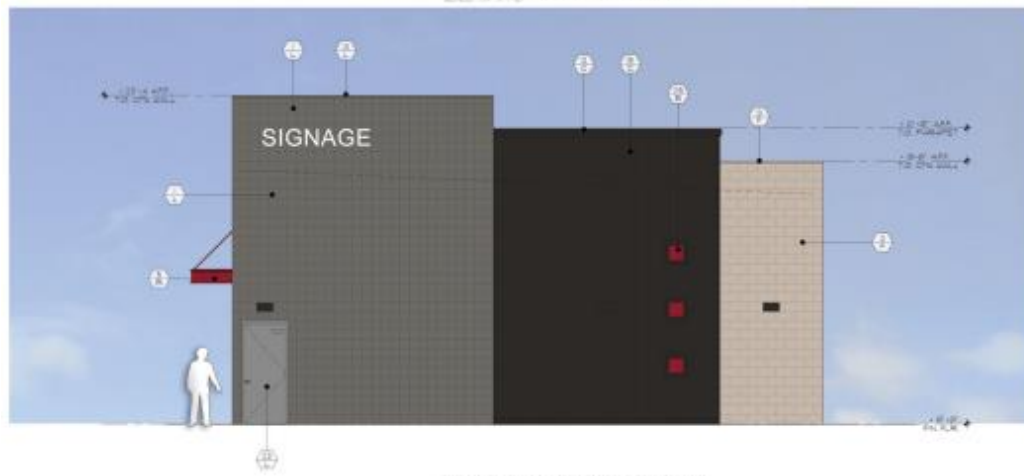
ATTACHMENT C

APPLICANT SUPPLIED DOCUMENTS

EXHIBIT 4 – Building Elevations



NORTH OFFICE FLEX ELEVATION



SOUTH OFFICE FLEX ELEVATION

MATERIAL SCHEDULE	
MATERIALS	FINISH/COLORS
1. BRICK, RED, 2 1/2" x 8" x 4" (NORTH)	1. PAINT, WHITE, EXTERIOR (FACADE)
2. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	2. PAINT, RED, EXTERIOR (FACADE)
3. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	3. PAINT, RED, EXTERIOR (FACADE)
4. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	4. PAINT, RED, EXTERIOR (FACADE)
5. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	5. PAINT, RED, EXTERIOR (FACADE)
6. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	6. PAINT, RED, EXTERIOR (FACADE)
7. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	7. PAINT, RED, EXTERIOR (FACADE)
8. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	8. PAINT, RED, EXTERIOR (FACADE)
9. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	9. PAINT, RED, EXTERIOR (FACADE)
10. BRICK, RED, 2 1/2" x 8" x 4" (SOUTH)	10. PAINT, RED, EXTERIOR (FACADE)

Architectural Concepts

10811 Cafe Modesto
Calistoga, CA 94515
10214
Phone: (415) 734-3057
Email: info@architecturalconcepts.com

ARC Services Inc.
1420 N. BUSINESS PLACE
Fountain Hills, Arizona 85258
Phone: (480) 837-0761
Email: pgonline@arc-services.com

CHINO VALLEY SELF STORAGE
East of 1299 NORTH STATE RTE. 89
TOWN OF CHINO VALLEY
ARIZONA 86323

DD3

[illegible]

ATTACHMENT D
STAFF RESEARCH



STAFF RESEARCH – CONDITIONAL USE PERMIT

CASE #: CUP-2023-03
CASE PLANNER: WILL DINGEE

PROJECT NARRATIVE: This is a request by Brian Greathouse, on behalf of Stor-It Arizona LLC, for a Conditional Use Permit for a Mini-Storage and RV Storage Facility with a Commercial Retail Component on a parcel zoned Commercial Light (CL). The property is located on the east side of State Route 89, approximately a quarter mile north of the intersection of State Route 89 and Road 2 North, Chino Valley, Arizona.

I. PROJECT DATA

Project Location:	Quarter mile north of the intersection of State Route 89 and Road 2 North				
Parcel Number(s):	306-20-035A				
Parcel Size(s):	6.99 Acres				
Total Acreage:	S.A.A.				
Proposed Dwelling Units:	N/A				
Address:	N/A				
Applicant:	Stor-It Arizona LLC				
Applicant's Agent:	Madison Leake				
Land Use Conformity Matrix:	Conforms:	Yes	X	No	
Zoning Overlay	PAD	N/A			

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Commercial Light (CL)	Vacant	Multifamily/Commercial & Future Community Core
North	Commercial Light (CL) & Commercial Heavy Agricultural Residential 5 Acre (CH/AR-5)	Mary's Furniture, Federwisch Auto sales & Rodgers Automotive	Multifamily/Commercial
South	Commercial Light Agricultural Residential 5 Acre (CL/AR-5)	Residential Agricultural	Future Community Core
East	Commercial Light (CL)	Vacant Land	Multifamily/Commercial & Future Community Core
West	Commercial Light (CL)	Existing Stor-It Ministorage	Future Community Core

Prior Cases or Related Actions:

Type					Cases, Actions or Agreements
Pre-Annexation Agreement	Yes		No	X	
Annexation	Yes	x	No		Original Town – September 21, 1970
General Plan Amendment	Yes		No	x	
Development Agreement	Yes		No	x	
Rezone	Yes	x	No		Rezoned to Commercial. Ord. 15-793. February 24, 2015

ATTACHMENT D
STAFF RESEARCH

Subdivision	Yes		No	x	
Conditional Use Permit	Yes		No	x	
Pre-Application Meeting	Yes	x	No		PA-2022-91
Enforcement Actions	Yes		No	x	
Land Division Status:	N/A				
Irrigation District:	CVID impacted				

II. TOWN OF CHINO VALLEY GENERAL PLAN

Land Use Element:			
Land Use Designation:	Community Core & Commercial/Multifamily		
Issues:			
Public Services Element:			
Water Facility Plan:	Source:	Proposed Well (Potential City of Prescott connection)	
Sewer Facility Plan:	Treatment:	Proposed Septic	
Issues:	Closest Municipal Sewer is Road 2 North approximately ¼ mile away. City of Prescott has the potential to serve this property as it falls within the IGA.		
Safety Element:			
Flood Plain Designation:	N/A		
Issues:			
Transportation Element:			
Road Classification	State Route 89		
Issues:			
Parks and Rec Element:			
Closest Park:	Community Center Park		
Within 1 mile of the Peavine Trail?	No		

NOTIFICATION

- Legal Ad Published: The Daily Courier 7/10/2023
- Neighborhood Meeting: 6/29/2023
- 300' Vicinity Mailing: 6/12/2023
- Hearing Dates: P&Z 8/1/23 - TC 8/22/23
- 19 Commenting/Reviewing Agencies noticed: 6/12/2023
- Comments Due: 6/26/2023

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
CAFMA			X		
Samantha Alvarez – APS			X		
Richard Perez - A.D.O.T.			X		
Ralph Baker – C.V.I.D.			X		
Suzann E. – YC ENV			X		
Jose Galvez – YC Health			X		
SparkLite Cable			X		
LUMEN			X		
Unisource Gas			X		
CVUSD			X		

ATTACHMENT D
STAFF RESEARCH

United States Postal Service			X		
<i>Town of Chino Valley Internal List (Conditions)</i>	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Will Dingee – Senior Planner (DS)				X	
Laurie Lineberry – DS Director				X	
Frank Marbury – PW Director			X		
Steve Sullivan – Assistant Engineer (PW)			X		
Dan Trout – CBO (DS)			X		
Damon Stanley – Code Enforcement			X		
Chuck Winn – Chief of Police (Police)			X		



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

6. d.

Meeting Date: 08/22/2023
Contact Person: Will Dingee, Senior Planner
Department: Development Services
Estimated length of staff presentation: None
Physical location of item: SE Corner of N Road 1 East and Red Cinder Road

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve Ordinance No. 2023-933 to rezone approximately 21 acres of real property located at the southeast corner of N Road 1 East and Red Cinder Road (APN 306-18-009Q and APN 306-18-009R) from Agricultural Residential 5-Acre Minimum to Single Family Residential 1-Acre Minimum.

RECOMMENDED ACTION:

- i) Hold a Public Hearing
- ii) Approve Ordinance No. 2023-933

SITUATION AND ANALYSIS:

See attached

Fiscal Impact

Fiscal Impact?: N/A
If Yes, Budget Code:
Available:
Funding Source:

Attachments

ZC-2023-01 TC Staff Report
 ORD - 2023-933



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM #	3752	☒ Ordinance
MEETING DATE:	July 11, 2023	☐ Resolution
CONTACT PERSON:	Will Dingee, Assistant Director - Development Services	☒ Public Hearing
		☐ Contract/IGA/PSA

Case/Project Description:

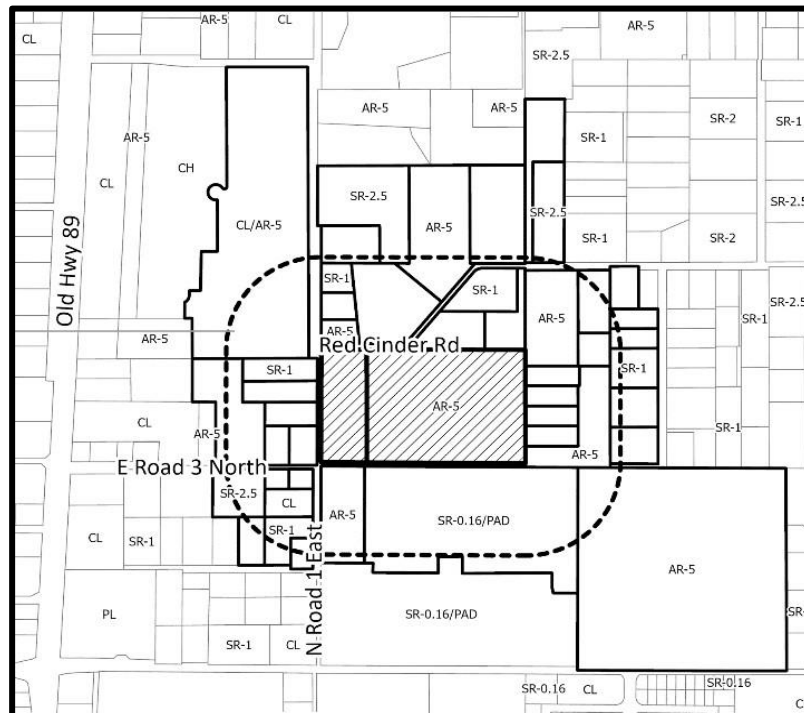
This is a request by Adam Haywood, on behalf of Allen Nel, to rezone approximately 21 acres of land from Agricultural Residential 5-Acre (AR-5) to Single Family Residential 1-Acre (SR-1). The property is located at the southeast corner of N Road 1 East and Red Cinder Road, Chino Valley, Arizona.

Planning and Zoning Recommended Action

The Planning Commission modified the Conditions of Approval and forwarded a recommendation of approval with a 5-1 Vote.

See Attachment 1 for the Conditions of Approval

Location Map:



Location Data:

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Agricultural Residential 5-Acre Minimum (AR-5)	Vacant	Medium Density Residential (2 Acres or Less)
North	Single Family Residential 1-Acre Minimum (SR-1) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
South	Single Family Residence 0.16-Acre Minimum (SR-0.16) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
East	Single Family Residential 1-Acre Minimum (SR-1) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
West	Single Family Residential 1-Acre Minimum (SR-1)	Residential	Commercial / Multi-Family Residential

Neighborhood Meeting:

A neighborhood meeting was held at the Town Hall Council Chambers on April 26 and 27 in which 11 community members attended the April 26th meeting. The following was discussed:

- Questions if the applicant is intending for manufactured or site-built homes.
- Questions if the applicant intended to be on Town water and sewer, or individual wells and septic systems.
- Concerns over impact on water availability.
- Concerns over increase in traffic and negatively impacting road quality.
- Concerns over increase in density.
- Concerns over impact to surrounding landscape.
- Concerns over plat configuration and adequate emergency exits.

Additional Public Comment:

See Attachment 2 for a detailed dialog from the P&Z Meeting.

See Attachment 3 for letter(s) received from the public.

FISCAL IMPACT?

N/A

Attachments

Attachment 1 – Conditions

Attachment 2 – P&Z Minutes

Attachment 3 – Public Letter(s)

Attachment 4 – P&Z Staff Report

Attachment 1
Conditions of Approval
ZC-2023-01
Town Council
July 11, 2023

Development Services Comments: Laurie Lineberry, Director, 928-636-3471

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner shall sign a Waiver of Claims form, which the Town will provide and record with the Yavapai County Recorder's Office, prior to the rezone being heard by the Town Council.

Planning: Will Dingee, Assistant Director, 928-636-3472

3. The owner shall deed-restrict development of the lots to site-built homes only.

Public Works/Engineering: Frank Marbury, Director, 928-636-3401

4. The owner shall dedicate approximately 15' of additional right-of-way, for a total of 40' east of the west line of section 11 along North Road 1 East per the Town's Unified Development Ordinance § 5.3.2, Table 5-1 (Urban Arterial). The exact amount to be dedicated will be determined through a survey and subject to approval by the Town.
5. The owner shall improve the east-half of North Road 1 East along the entire frontage of the property per the Town's Urban and Rural Roadways Map (Urban Road with Multi-Use Path) as follows:
 - a. 19' minimum asphalt paved road section (centerline to lip of gutter)
 - b. Concrete curb and gutter
 - c. 5' concrete sidewalk
6. The owner shall reconstruct the south-half of Red Cinder Rd that is adjacent to the property per the Town's Unified Development Ordinance § 5.3.2, Table 5-1 (Rural Local Road) as follows:
 - a. 12' minimum asphalt road half-width
 - b. 5' paved shoulder, thickened edge
 - c. Bar ditch
7. The owner shall dedicate and improve internal streets (full-width) per the Town's Unified Development Ordinance § 5.3.2, Table 5-1 (Rural Local Road) as follows:
 - a. 50' minimum right-of-way
 - b. 24' asphalt road width
 - c. 5' paved shoulder, thickened edge
 - d. Bar ditch
 - e. At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of thirty-five (35) feet for collector and arterial streets. This shall apply to existing adjacent streets / rights-of-way as well.
 - f. Cul-de-sac streets shall terminate in a circular right-of-way sixty (60) feet in radius with a minimum improved traffic turning circle forty-eight (48) feet in radius.

Stipulations from the Planning and Zoning Commission – June 6, 2023

8. The developer shall enter into discussions with the Town about:
 - a. possible connection to Town Water service,
 - b. alignment of Road 3 North for possible access to the project
 - c. providing a Traffic Impact Statement.
9. The rezone is effective for 5 years from the date of Town Council Approval

Attachment 2
Minutes - P&Z June 6, 2023
ZC-2023-01
Town Council
July 11, 2023

PUBLIC HEARING #E.1 - CASE# ZC-2023-01 — *This is a request by Adam Haywood to rezone approximately 21 acres of land from Agricultural Residential 5-Acre (AR-5) to Single Family Residential 1-Acre (SR-1). The property is located at the southeast corner of N Road 1 East and Red Cinder Road, Chino Valley, Arizona.*

Meadors recused herself from the dais declaring she attended the neighborhood meeting as an interested party and clarified that she had received the public postcard notification. **Meadors** left the Council Chambers at 6:07pm. **Chair Merritt** noted in the staff report that Alternate Commissioner **Fernow** was also listed as attending the neighborhood meeting and asked her if she participated as a voice for the public. **Fernow** indicated that she did share her opinions as a member of the public.

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. There were none.

Will Dingee, Assistant Director presented the staff report for case ZC-2023-01 and stated that staff recommended approval. He also provided a modified street layout showing a second exit on Red Cinder Road to the north.

Switzer asked about the proximity of water and sewer to this area when utilities are completed in the Perkinsville 44 subdivision. **Marbury** stated water connection is at Adams, sewer is at Perkinsville. **Marbury** stated that the code identifies that if a subdivision of parcels is less than 1-acre must connect to the town water system. Lots one acre or larger must connect if within 300 feet of the Town water system. This is not the case with this property as the lots are not within 300 feet. For sewer, if a subdivision contains lots 1 acre or greater they may install septic tanks if sewer is not available within 300 feet. Water infrastructure costs are around \$350/foot.

Merritt estimated that the cost for water could be \$200,000, plus the cost to hook-up the individual lots. The cost to bring water and sewer to the property would be \$600,000, not including the \$1 Million cost of a lift station. He asked if there could be a stipulation to bring water to the property. **Marbury** stated that there could be some type of development agreement between the developer and the Council to share costs of installation. The council could make that decision for water and sewer. **Pasciak** asked if the town had an agreement to pay for the water line up to the 300' limit, in a partnership with the development, that it would cost the Town to participate. **Marbury** agreed and said the money would have to come from somewhere in the Town budget.

There were no further questions from the commission for staff at this time.

Applicant Adam Haywood, of Borderland LLC, stated that Will covered everything that he was going to cover from the staff report, agreed with the conditions, which included a deed restriction for site-built homes, dedications to reach the town required right-of-way width, and road improvements, including pavement and drainage along the sides (pending engineering drainage review). He stated he was flexible with the road layout and connections to existing roadways. **Haywood** said they were open to participation in extending the water line and connecting. The improved roads will be dedicated to the town during the subdivision process.

Penn pointed out that the current drawing shows 16 lots, which would mean 16 individual well sites. He also asked about landscaping and the maintenance of common areas. **Switzer** asked if **Haywood** would be amenable to talk about extending the water line from Adams up to this property. **Haywood** stated that he would be agreeable to speak with Public Works to consider what the cost may be and how much the town would be willing to participate. **Haywood** stated that they are currently pursuing approval for the wells from Arizona Department of Water Resources (ADWR) and septic approvals.

There were no other questions from the commission for the applicant at this time.

Merritt opened the public comment period.

Diane Norberg stated she and her husband moved to Chino Valley because of the rural feel with farm animals and expressed concern about this development changing the character of her neighborhood. This change doesn't benefit current neighbors. Traffic will increase on the bad roads. She requested that the Commission restrict the new homes to one-story in order to preserve the current views existing property owners have. She requested the Planning and Zoning Commission deny the rezone.

Rachelle Fernow of 2949 N Road 1 East, questioned previous meetings where discussion regarding counting the right-of-way as part of the parcel would allow those parcels to be less than one acre in size. She felt there were inconsistencies that the Town needed to figure out. Also, she mentioned, as an alternative, using the current easement located on Road 3 North and continuing that road to allow the main access to this proposed plan. She felt that these homes would sell at \$585,066 on average and that the total profit would be around \$9.3 Million. The developer should use some of that profit to improve the infrastructure extension.

Toni Graybill of 1022 Granite Creek Lane, agreed with **Norberg** and shared that she appreciated the developer being flexible and willing to work with the town on utilities. She supported the access proposed by Rachelle Fernow, on Road 3 North. She questioned the possibility of regrading to accommodate sewer lines.

James Olson of 2117 N Road 1 East questioned water and sewer credits and how that works for the Town. He agreed with what all his neighbors had previously said. Using Road 3 North would be preferable.

Tom Trucba of 1130 Red Cinder stated that he lived on Red Cinder and there was a lot of traffic already on that road, so he was concerned about having an additional road access from this proposed development. He added that Red Cinder Road is in terrible disrepair and that more traffic will just cause additional deterioration. The Town needs to start working on the roads in Town.

Ralph Wilckin of 2044 N Road 1 East, stated that he lives on Road 1 East and his driveway is directly across from the proposed access to this development which creates safety issues. He also shared that he has lived here for 20-plus years and that the rural setting is why he moved here. These types of developments should not happen at the expense of the existing landowners.

James Holt, Water Consultant for applicant, he shared that the applicant will still need an assured water supply even if the State decides there is sufficient water to approve the 100-year supply. This ADWR paperwork is in progress and should be completed in 4-8 weeks. He agreed with Attachment B, comments from the Town's Water Consultant. He shared that the water quality in this area is extraordinarily good. He added that the overall impact to the water will remain the same if there are individual wells or the water is provided by the Town. **Pasciak** asked if the town was under agreement to provide water to this project, that means the Town would be guaranteeing the 100-year water supply to this project and be depleting the town's overall water supply. **Holt** agreed.

Nancy Thomas of 1166 Red Cinder, stated she also lives on Red Cinder and that having an additional road intersection will compound the already blind corner. She also liked the idea of having the main access off of Road 3 North. She added that the roads aren't wide enough and there are not enough sidewalks. She stated she was against this project. Perkinsville 44 was

already approved by this body, with no road improvements. The area roads are in horrible shape and there is no safe place to walk. The Commission should support the neighbors. She felt the neighbors on Red Cinder should have their road improved.

There were no further comments from the public and **Merritt** closed the public portion of the meeting.

Merritt identified the various items of concerns. These included density, different sewer route, water recharge credits, possible access via Road 3 North and overall road improvements.

Marbury addressed the recharge credits first. He stated if you hook up to town water and not to town sewer, septic tanks do not recharge into the aquifer. That is the advantage of connecting homes to town sewer which does recharge to the aquifer; it adds to the towns paper water portfolio.

Merritt asked if the town uses the developers water assurances does it affect the town portfolio. **Marbury** stated that he would not recommend paying for the developers' water credits. He added that the town has the right to sell water credits out of its portfolio at a cost of \$25,000 per acre foot per 100-year supply. The town can supply water to developments with 660' of an existing line. The Town wells are around 1000' deep. Individual wells are around 400 feet deep. **Switzer** asked about water credits for Town water. **Marbury** shared the Town can supply water to the subdivision or sell the developer water credits. There is "legal" water and "physical water. **Merritt** asked if the developer agreed to bring town water to his development, could his assured water supply credit be signed over to the town. **Marbury** stated yes.

Mr. Holt had mentioned in his comments that whether it is town water or private wells, the water is being drawn from the same aquifer at different levels beneath the surface. **Marbury** shared that generally a home on a meter uses less water as they are paying water costs each month. **Pasciak** thanked Public Works for the thorough list of roadway improvements required. **Merritt** asked when the roads and infrastructure in Perkinsville 44 would be completed. **Marbury** stated he does not have a completion date. He added that Perkinsville 44 is obligated to improve both Road 1 East and Perkinsville Road adjacent to their project, including a 10' pathway.

Merritt asked if this project was required to provide the same dedications and assurances.

Marbury stated yes. This project would provide 19-feet of asphalt on Road 1 West, curb, gutter, and sidewalk and also on Red Cinder if access should be approved. **Merritt** asked about the Road 3 North right-of-way concerns. **Marbury** shared that Road 3 North did not have a continuous right-of-way along the south property line of this development. This road was not scheduled to become an arterial, since it could not cross the wash. **Switzer** asked which type of roadways the town prefers, cul-de-sacs or loops. **Marbury** shared that a loop with two exits is the best scenario for larger vehicles, such as buses, fire equipment, garbage trucks, etc. He also confirmed that Red Cinder would require 12-foot minimum pavement per lane width, plus a 5-foot shoulder with a roadside ditch.

Merritt asked about a public suggestion for an alternate sewer route to the north through grading the area. **Marbury** shared that the topography of the area flows from southwest to northeast. A lift station would be required at the low point of the subdivision to pump to the existing sewer line in Perkinsville. There is no sewer to the northeast and there is no continuous right-of-way available to provide a sewer connection to the north.

Merritt asked **Marbury** to comment on the amount of traffic that 16 lots would generate. **Marbury** stated the standard traffic for single family residential use is considered an average of 10 trips per day per unit. This includes, postal office, garbage trucks, emergency vehicles, UPS, FedEx,

deliveries, residents, etc. A Traffic Impact Statement could be required to provide more specific details.

Merritt felt it was important to share with the group where he lived in relation to the proposed development. He walked over to the map and pointed out his house, the two curves on Red Cinder, the trees that block visibility, along with the location of several speakers' homes. He returned to the dais.

Dingee shared that the amended circulation map shown tonight was conceptual only, to illustrate that the applicant is open to revisions and to creating a safe environment. **Merritt** agreed that the alternate circulation plan was not very safe, He felt the two cul-de-sacs wasn't safe either. He felt it was worth exploring the possibility of access on Road 3 North. **Switzer** also felt that the Road 3 North option made sense based on the primary direction people would drive to leave the Subdivision.

Pasciak directed the questions back to the slide showing the notification radius and the subsequent map showing where the neighborhood meeting attendees actually lived. He noted that there were multiple attendees that were outside of the notification radius.

Marbury interjected to clarify the provision of allowing certain properties less than 1-acre in size, to be served by well and septic. **Marbury** asked **Dingee** to supplement his response. Then **Merritt** asked **Dingee** to explain Prop 207 as it applies to these lots. **Merritt** asked about buffer zones. **Dingee** agreed that this parcel, as 1-acre lots, serves as a buffer between Perkinsville 44 Subdivision and properties to the north of this propose rezone.

Switzer asked about water (and not sewer) being supplied to the property. **Marbury** reiterated prior statements. For the record, **Switzer** shared that he voted "no" twice on the Perkinsville 44 project.

Haywood returned to the podium and responded to neighbors questions. He shared that if the access was on Red Cinder the road improvements are required. If there is an alternative access along Road 3 North, that also will be improved per the town requirements. He shared that they agreed the trees on the corner were a hazard. **Haywood** discussed extinguishment credits for water, which would cost him \$400,000. **Merritt** asked **Haywood** if he objected to exploring Road 3 North as an access. **Haywood** agreed to explore Road 3 North for access to the subdivision.

Merritt addressed a prior comment regarding the profit for this project. He stated that total sales does not equal profit to the developer. Profit is only determined after all the building costs are deducted, which include building design, roads, sidewalks, wells, septic installation, landscaping, etc.

Marbury asked to clarify that currently there is only one parcel that does not have right-of-way provided along Road 3 North, which is the parcel on the corner of Road 1 East and Road 3 North.

Merritt shared that all of the 1-acre parcels in the area of this project, started out as a great big parcel, those properties where divided and then split again as people wanted to move here and have a place to live. If you look at the area map, you can see 0.9-acres lots, 0.36-acre lots, 0.55-acre lots that are a result. This whole area is surrounded by a majority of 1-acre parcels with mobile homes – they all started out as parts of larger parcels. He stated that he has lived at his current location for 20 years, he liked his property and the location, but this town is going to develop to a certain degree for the same reason that others had moved to Chino Valley. He mentioned that the developer has agreed to build site-built homes rather than manufactured homes. He stressed that in his opinion, the density is a non-issue.

The commission discussed the possibility of adding a time limit to the rezone and the possibility of adding stipulations to staffs recommendations for approval.

MOTION - A motion was made by Commissioner Switzer and seconded by Vice-Chair Pasciak to approve ZC-2023-01, as presented by staff, with the following two stipulations :

- 8. The developer shall enter into discussions with the Town about:**
 - a. possible connection to Town Water service,**
 - b. alignment of Road 3 North for possible access to the project**
 - c. providing a Traffic Impact Statement.**

- 9. The rezone is effective for 5 years from the date of Town Council Approval**

A roll call vote was taken with the following votes: Welker–Yes, Penn–No, Zamudio–Yes, Switzer–Yes, Pasciak–Yes, Merritt–Yes. The motion passed with a 5-1-0 approval, with Teena Meadors recusing herself.

Merritt asked each of the commissioners to explain their vote. They are as follows:

- **Welker** – voted yes. The subject property fits as a buffer between the 7,000 square foot lots and the surrounding properties.
- **Penn** – voted no. More consideration should be given to people that have purchased property over the years, knowing what the zoning was of the various lots in the area, and in most cases that is why they purchased their lots. Perkinsville 44 received zoning approval in April 2018. Chino Valley is a very different town from 2018 and I think property should be looked at differently today.
- **Zamudio** voted yes. The applicant satisfies the requirements for the land and when you buy property, nothing is guaranteed. You do not control someone elses property, and you don't tell them what to do with it. This proposal fits within what development is currently, and so I feel that he is correct and he should move forward with the way his plans are.

- **Switzer** – voted yes. He felt that the zoning fit with the surrounding properties/zoning. He felt the zoning change fit the surrounding property. If does fit with the current General Plan and it also fits with the potentially upcoming General Plan, with the stipulations of the proper preliminary plat comes forward, it could be a good project for the surrounding area and even for the folks on Red Cinder without impacting their properties to a great extent.
- **Meadors** - recused herself
- **Pasciak** – voted yes. He agreed with everything that had been said for this development, but in addition to that he added that the view you get with your property only extends to your property line. The fact that you might have 20-acres in front of you that has nothing on it, isn't going to be there forever and if you want that view to stay, you need to buy that 20-acres. A view is not guaranteed with your property. Comments about the conditions of the road – the Town has been aware of the road conditions since 2014 when there was an opportunity to develop a priority of roadway improvements and additionally in 2019, a tax was floated to the voters, with the voters voting “NO”. **Pasciak** felt that the developer improving their half of the road was good for the Town and hopefully the Town can maintain it because nobody wants to vote for an increase in tax.
- **Merritt** – voted yes. **Merritt** agreed with everything that everybody else said, except for the no vote. He felt it was unreasonable to expect large parcels of land to stay undeveloped. This project is surrounded by 1-acre parcels or less in size. Those people moved here, just like current property owners did and the new people have a right to do the very same thing. If the citizens of Chino Valley do not want any more development in town, then they need to own or control the property. As far as the roads, tax money is what makes the roads get improved. The Town Engineer fights a losing battle every year to keep up with road maintenance that no one wants to pay for but everyone wants to complain about. We hear it every zoning meeting. This is a great project with site-built homes, a possibility of Town water and **Merritt** just didn't know what else, other than spending an extraordinarily large amount of money to put sewer there, the guy could have done any better than he did, especially with, the stipulations that were placed on the project. **Merritt** shared where he lived because he was putting his mouth where his wallet was.

Attachment 3
Letter(s) from the Public
ZC-2023-01
Town Council
July 11, 2023

Diane and Ron Norberg
2015 Branding Iron Lane
APN: 306-17-095A

First, thank you for your time and for allowing me to share my comments.

When my husband and I moved here last year, we chose Chino Valley because of the small town atmosphere. We specifically chose our property because we liked the feel of living in the country, not a larger town. We looked at Prescott, Cottonwood, Camp Verde, Jerome, Dewey, Ash Fork and several other towns. None of them felt like Chino Valley or the neighborhood we chose right off of Red Cinder Rd. We love being surrounded by the sights and sounds of small ranches and farms with horses, goats, chickens and other animals. This was our retirement dream! We made it! We knew when we moved here we would have to drive at least 20 minutes to do most of our shopping, medical appointments, dining, see movies, etc. but it was a compromise we CHOSE so we could enjoy living in an uncrowded small town in the country. We just plan ahead if we need something out of town. Most of the residents of Chino Valley want to keep the 'small town' feeling we have. Of course, there will be growth but the council needs to be mindful of what they allow and keep in mind the feelings and wishes of the CURRENT residents.

If you allow these 5 acre lots to be rezoned to 1 acre lots, it DOES NOT benefit the current neighbors. It only puts more money in the developer's pocket! The residents here like the wide-open spaces, rural country views and ability to have livestock. Local realtors tell us people come to Chino Valley specifically looking for large lots to have horses, certainly more than 2 acres. One acre lots are just too small. We will already be dealing with the overcrowding and pollution that the Perkinsville 44 tract homes will be adding to our surrounding roads. That will add somewhere near 200 more cars to our neighborhood when it is completed. That will be right next to these new homes being proposed on N. Rd. 1 East. There is NO NEED for more! It DOES NOT benefit us! The number of added homes should be kept to a minimum for the sake of the current neighbors and the lot size to the maximum.

I heard from a 'long time' neighbor that the land owner of the rezoning request puts a lot of money into Chino Valley so the council will most likely give him anything he requests. I hope that's not true!! I hope the council is working for the current residents who voted for them. I hope they are listening to what we want: wide open, uncrowded spaces, with a country feel and views. And speaking of views, I would also like to request that **none of these new homes will be 2 stories**. Even single story houses will be taking away many of our views. The open pastures that I see 3 horses grazing on as I drive past right now will certainly be gone. There goes another piece of that 'wide open country feel'. Bummer.

Thank you for your time and consideration.

From: Nancy Thomas <nltierra@msn.com>
Sent: Monday, May 1, 2023 9:34 PM
To: Bethan Heng
Subject: Rezoning Case# ZC-2023-01

Dear Chino Valley Planning Commission,

I am writing to express my disapproval regarding the rezoning request for the area in question. The lack of infrastructure in this area is concerning, with roads that are not maintained and are not wide enough for two vehicles. It is worth noting that a housing tract community was recently approved that backs right up to this rezone request property, yet nothing has been done to improve the roads or access for the community that is already in place. This is particularly concerning given that the area is close to a school and has a school bus pick up right on the corner with no safe place for children to wait. I believe that increasing traffic will only make things worse and will not improve the area.

I also feel that there should be another in person meeting before this is decided since the postcards you sent out had Thursday, April 26th as the date when that was actually a Wednesday and there could be several people that were unable to attend due to your error with this mailing.

Thank you for considering my concerns. Best regards,

Nancy Thomas
1166 Red Cinder Rd.
Chino Valley, AZ

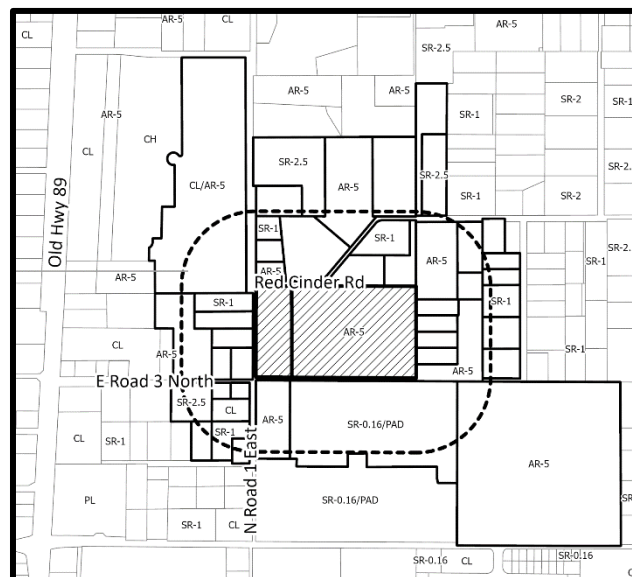
Attachment 4
Staff Report – P&Z June 6, 2023
ZC-2023-01
Town Council
July 11, 2023

PROJECT DESCRIPTION

This is a request by Adam Haywood, on behalf of Allen Nel, to rezone approximately 21 acres of land from Agricultural Residential 5-Acre (AR-5) to Single Family Residential 1-Acre (SR-1). The property is located at the southeast corner of N Road 1 East and Red Cinder Road, Chino Valley, Arizona.

LOCATION DATA

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Agricultural Residential 5-Acre Minimum (AR-5)	Vacant	Medium Density Residential (2 Acres or Less)
North	Single Family Residential 1-Acre Minimum (SR-1) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
South	Single Family Residence 0.16-Acre Minimum (SR-0.16) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
East	Single Family Residential 1-Acre Minimum (SR-1) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
West	Single Family Residential 1-Acre Minimum (SR-1)	Residential	Commercial / Multi-Family Residential

LOCATION MAP

PRIOR SITE ACTIONS:**Code Enforcement**

APN 306-18-009Q – Overgrown weeds: 2-1-23, 9-26-22, 5-29-12, 4-4-11, and 8-27-09.

APN 306-18-009R – Overgrown weeds: 2-1-23 and 8-27-09.

Land Division History**APN 306-18-009Q**

October 21, 2004 – Result of split from **APN 306-18-009L** (Sibling Parcel APN 800-13-019).

August 3, 2004 – Result of split from APN 306-18-009F (Sibling Parcels APN 306-18-009K, 306-18-009M, & 306-18-009N).

January 21, 1999 – Result of split from APN 306-18-009E (Sibling Parcels APN 306-18-009G & 306-18-009H).

January 18, 1995 – Result of split from APN 306-18-009C (Sibling Parcel APN 306-13-00D).

January 18, 1995 – Result of lot combo of Parcels APN 306-18-009A & 306-18-009B.

APN 306-18-009R

October 21, 2004 – Result of split from APN 306-18-009M (Sibling Parcel APN 800-13-020).

August 3, 2004 – Result of split from APN 306-18-009F (Sibling Parcel APN 306-18-009K, **306-18-009L**, & 306-18-009N).

January 21, 1999 – Result of split from APN 306-18-009E (Sibling Parcels 306-18-009G & 306-18-009H).

January 18, 1995 – Result of split from APN 306-18-009C (Sibling Parcels 30618-009D).

January 18, 1995 - Result of lot combo of Parcels APN 306-18-009A & 306-18-009B.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission forward to the Town Council a recommendation of **APPROVAL** for the Red Cinder Estates Rezone with Conditions of Approval found in Attachment A.

SUGGESTED MOTION:

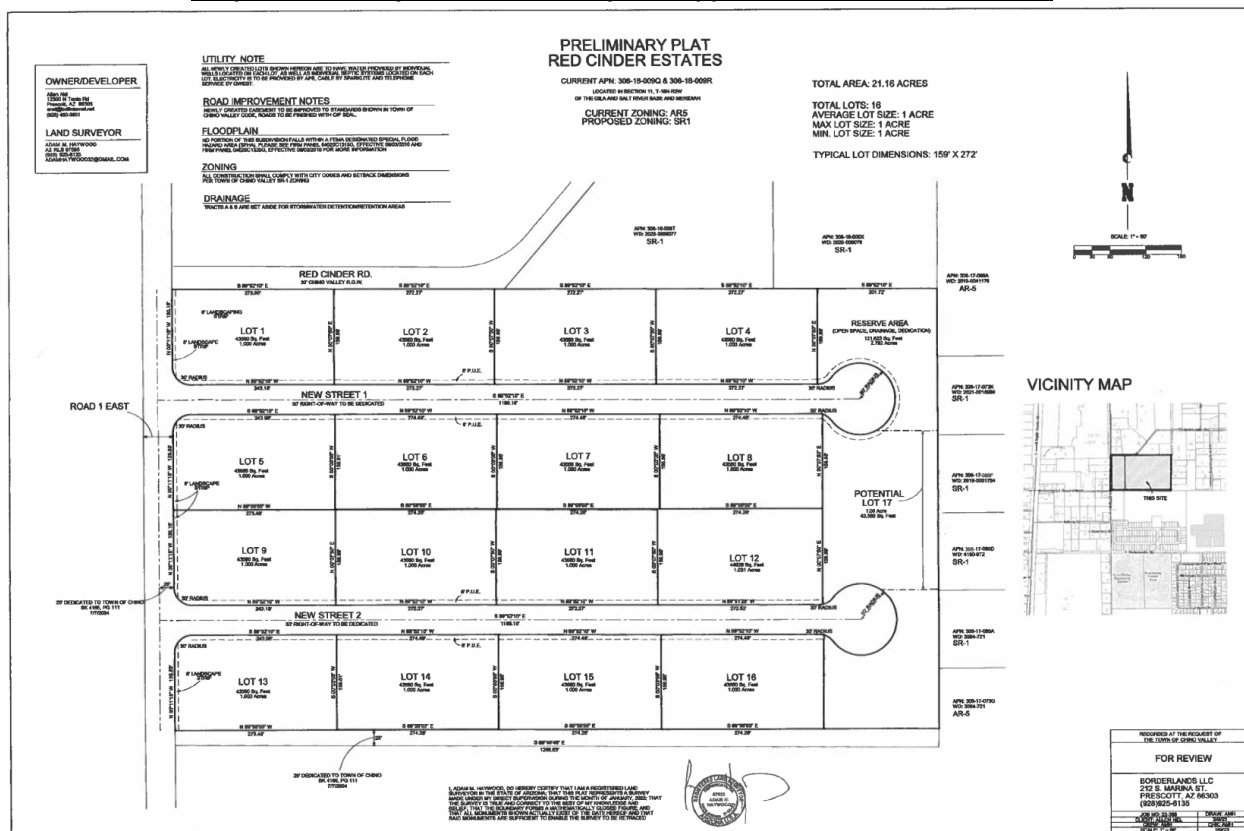
Move to **APPROVE** Zone Change ZC-2023-01 as presented, subject to the staff report and information provided during this hearing, and the Conditions of Approval in Attachment A

EFFECT OF THE APPROVAL:

By approving this Zone Change, the Planning and Zoning Commission is recommending approval to Town Council for the Red Cinder Estates Rezone, located at the southeast corner of N Road 1 East and Red Cinder Road, subject to the staff report and information provided during this hearing, and affirmatively finds that the request is in conformance with the General Plan.

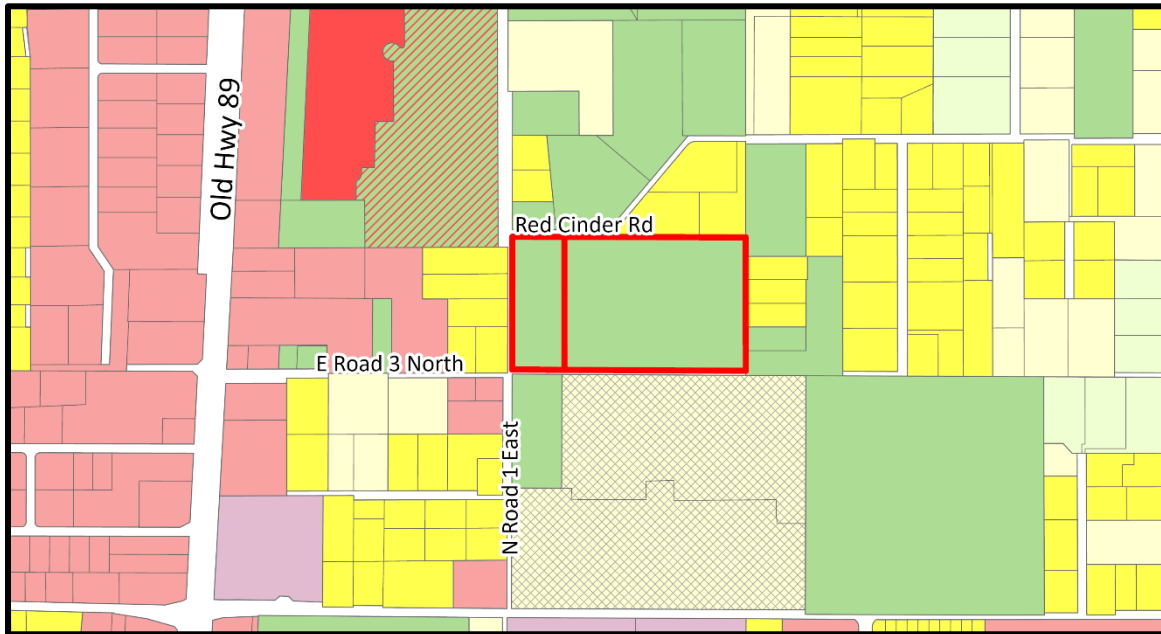
Staff Analysis:

The applicant is applying to rezone approximately 21 acres of land from Agricultural Residential 5-Acre (AR-5) to Single Family Residential 1-Acre (SR-1), for a 16, potentially 17, 1-acre lot subdivision.

Proposed Site Layout Submitted by The Applicant at Point of Submittal

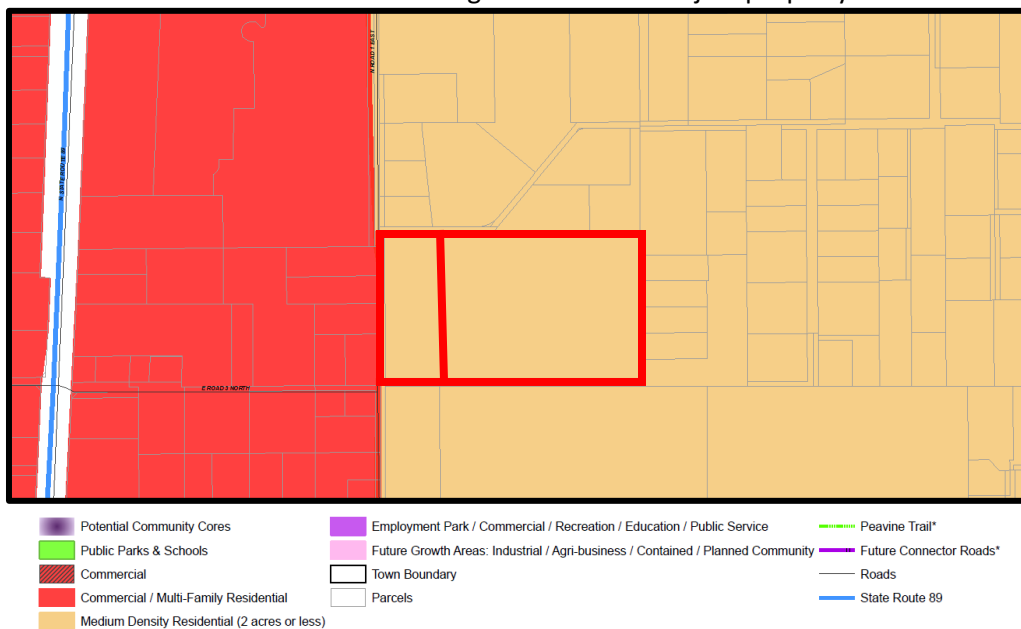
Zoning

Section 3.11 of the Unified Development Ordinance list “One (1) single-family dwelling” as a Permitted Use in the SR-1 zone. The applicant intends to build a residential subdivision of 1-acre lots with a single-family dwelling on each lot.



General Plan

The General Plan designates the subject property as Medium Density Residential (2 acres or less). The request to subdivide approximately 21 acres of land into 16 one-acre lots is in conformance with the General Plan designation for the subject property.



PUBLIC COMMENTS RECEIVED: See Attachment F

EXTERNAL AGENCY COMMENTS: See Attachment B

NEIGHBORHOOD MEETING COMMENTS: See Attachment C

PROPOSED CONDITIONS DELIVERED May 3, 2023
TO APPLICANT ON:

X	Applicant agreed with all of the conditions of approval on 5/23/2023
	Applicant did not agree with the following conditions of approval: (list #'s)
	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

ATTACHMENTS:

A	B	C	D	E	F
Conditions of Approval	External Agency Comments	Neighborhood Meeting Comments	Site Plan & Exhibits	Staff Research	Public Comment

PREPARED BY:


 WILL DINGEE – ASSISTANT DIRECTOR
 WDINGEE@CHINOAZ.NET
 928 636-4427 – x3472

DATE:

MAY 24, 2023

APPROVED BY:



LAURIE LINEBERRY, AICP
 DEVELOPMENT SERVICES DIRECTOR

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928-636-3471

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner shall sign a Waiver of Claims form, which the Town will provide and record with the Yavapai County Recorder's Office, prior to the rezone being heard by the Town Council.

Planning: Will Dingee, Assistant Director, 928-636-3472

3. The owner shall deed-restrict development of the lots to site-built homes only.

Public Works/Engineering: Frank Marbury, Director, 928-636-3401

4. The owner shall dedicate approximately 15' of additional right-of-way, for a total of 40' east of the west line of section 11 along North Road 1 East per the Town's Unified Development Ordinance § 5.3.2, Table 5-1 (Urban Arterial). The exact amount to be dedicated will be determined through a survey and subject to approval by the Town.
5. The owner shall improve the east-half of North Road 1 East along the entire frontage of the property per the Town's Urban and Rural Roadways Map (Urban Road with Multi-Use Path) as follows:
 - a. 19' minimum asphalt paved road section (centerline to lip of gutter)
 - b. Concrete curb and gutter
 - c. 5' concrete sidewalk
6. The owner shall reconstruct the south-half of Red Cinder Rd that is adjacent to the property per the Town's Unified Development Ordinance § 5.3.2, Table 5-1 (Rural Local Road) as follows:
 - a. 12' minimum asphalt road half-width
 - b. 5' paved shoulder, thickened edge
 - c. Bar ditch
7. The owner shall dedicate and improve internal streets (full-width) per the Town's Unified Development Ordinance § 5.3.2, Table 5-1 (Rural Local Road) as follows:
 - a. 50' minimum right-of-way
 - b. 24' asphalt road width
 - c. 5' paved shoulder, thickened edge
 - d. Bar ditch
 - e. At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of thirty-five (35) feet for collector and arterial streets. This shall apply to existing adjacent streets / rights-of-way as well.
 - f. Cul-de-sac streets shall terminate in a circular right-of-way sixty (60) feet in radius with a minimum improved traffic turning circle forty-eight (48) feet in radius.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

DATE:	5/2/2023	NAME:	RICHARD PEREZ	TITLE:	NORTHWEST DISTRICT PERMITS SUPERVISOR
AGENCY:	ADOT			EMAIL:	NORTHWESTPERMIT@AZDOT.GOV
1. ADOT has no concerns regarding the rezoning from AR-5 to Single Family Residential (SR-1). However, ADOT would require a copy of the TIA/TIS for review. Since a development in close proximity may impact traffic on the State Route 89, a Traffic Impact Analysis/Statement shall be prepared for developments which meet the specific requirement stated in ADOT Traffic Engineering Guidelines and Processes (TEGP), Section 240. Traffic Impact Analysis TGP 240 The preparer of the traffic study shall contact the appropriate ADOT Regional Traffic Engineer to discuss the scope of the analysis, methodology, and level of detail required for the specific project prior to beginning the analysis. If the TIA/TIS finds that impacts from this development affect SR-89, then any improvements would require an encroachment permit with supporting documents to be submitted to the Northwest District Permits office prior to development. Any and all work within the ADOT Right of Way shall be constructed according to ADOT Standards and Specifications. All construction plans shall be signed, sealed and dated by a professional engineer licensed in the state of Arizona. Be prepared to provide on and off site plans and include grading and drainage plans for review. 2. If ADOT determines that there may potential impacts to SR-89 then the property owner/developer may responsible to conduct the appropriate traffic studies, evaluations and subsequent improvements as required by ADOT. 3. ADOT's comments may not be all inclusive. ADOT reserves the right to comment further when and if Parcel #306-18-009Q and #306-18-009R develops, to review the TIA/TIS, and to comment on any other future meetings regarding Parcels #306-18-009Q and #306-18-009R. Please contact the Northwest District Prescott Permits department if you have any questions or concerns. 4. ADOT respectfully request that the Town of Chino Valley keep ADOT included of all reviews and any other future meetings moving forward with this development.					

DATE:	4/18/2023	NAME:	MARK HOLMES	TITLE:	WATER ADVISOR
AGENCY:	MARK HOLMES, LLC			PHONE	928-277-5253

An assured water supply is not needed for a rezoning. However, as an FYI for the next possible phases of platting by the developer the following items should be considered and prepared for depending on the timing of developer's platting timeframe if the zoning is approved and they intend to move quickly.

1. This subdivision with fewer than 20 lots will require a certificate of assured water supply issued from the Arizona Department of Water Resources, Assured and Adequate Water Supply. This process will require the applicant to prove there is a 100-year physically available water supply for each lot owner and this process requires the use of the Prescott AMA groundwater model and may take a considerable amount of time to complete (9-12 months).
2. The water quality will need to be tested from the water supply that each well will be pumping from and meet safe drinking water standards. If the water quality does not meet these standards than a water treatment system will be required to be installed within each residence per ADWR requirements of the certificate of assured water supply.
3. It is also recommended that the applicant set up a pre-application meeting with ADWR, Assured Water Supply Division far in advance of this work being required by ADWR.
4. All wells and septic systems including leach fields must have a setback of minimally 100 feet.

DATE MEETING HELD: APRIL 26 & 27, 2023

LOCATION: TOWN HALL COUNCIL CHAMBERS

ATTENDEES:

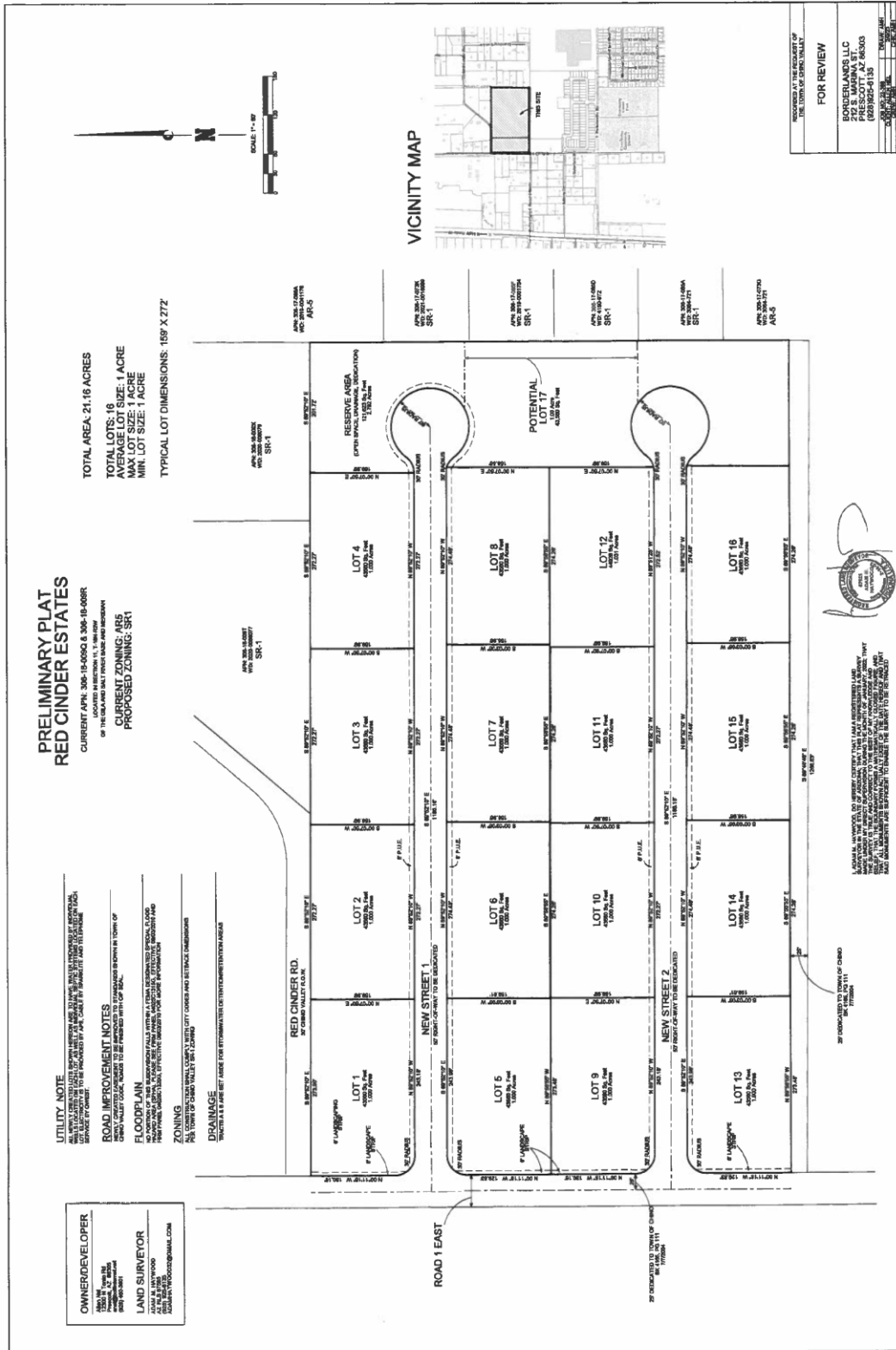
AGENT/DEVELOPER: ADAM HAYWOOD, AGENT

TOWN STAFF: WILL DINGEE, ASSISTANT DEVELOPMENT SERVICES DIRECTOR; BETHAN HENG, ASSOCIATE PLANNER.

NUMBER NEIGHBORS IN ATTENDANCE – 11 ATTENDEES – RACHELLE FERNOW, DIANE AUDETTE, TEENA MEADORS, JAMES HOLT, RON & DIANE NORBERG, RYAN ROBERTS, JOYCE FORD, PAUL TAYLOR, TONI GRAYBILL, ALIE AMATO, & DONNA DAWSON.

SUMMARY OF ATTENDEE(S') COMMENTS RELATED TO THE PROJECT:

- Questions if the applicant is intending for manufactured or site-built homes.
- Questions if the applicant intended to be on Town water and sewer, or individual wells and septic systems.
- Concerns over impact on water availability.
- Concerns over increase in traffic and negatively impacting road quality.
- Concerns over increase in density.
- Concerns over impact to surrounding landscape.
- Concerns over plat configuration and adequate emergency exits.



	STAFF RESEARCH – REZONE CASE #: ZC-2023-01 CASE PLANNER: BETHAN HENG
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I. PROJECT DATA

Project Location:	Southeast corner of N Road 1 East and Red Cinder Road.					
Parcel Number(s):	306-18-009Q & 306-18-009R					
Parcel Size(s):	21.1 Acres					
Total Acreage:	21.1 Acres					
Proposed Dwelling Units:	N/A					
Address:	No Address.					
Applicant:	Allen Nel					
Applicant's Agent:	Adam Haywood					
Land Use Conformity Matrix:	Conforms:	Yes	X	No		
Zoning Overlay	PAD					

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Agricultural Residential 5-Acre Minimum (AR-5)	Vacant	Medium Density Residential (2 Acres or Less)
North	Single Family Residential 1-Acre Minimum (SR-1) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
South	Single Family Residence 0.16-Acre Minimum (SR-0.16) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
East	Single Family Residential 1-Acre Minimum (SR-1) & Agricultural Residential 5-Acre Minimum (AR-5)	Residential	Medium Density Residential (2 Acres or Less)
West	Single Family Residential 1-Acre Minimum (SR-1)	Residential	Commercial / Multi-Family Residential

Prior Cases or Related Actions:					
Type	Conforms				Cases, Actions or Agreements
Pre-Annexation Agreement	Yes		No	X	
Annexation	Yes	X	No		Original Town – September 21, 1970.
General Plan Amendment	Yes		No	X	
Development Agreement	Yes		No	X	
Rezone	Yes		No	X	
Subdivision	Yes		No	X	
Conditional Use Permit	Yes		No	X	
Pre-Application Meeting	Yes	X	No		March 15 th , 2023 – (PA-2023-13) October 5 th , 2022 – (PA-2022-76)
Enforcement Actions	Yes	X	No		APN 306-18-009Q – Overgrown weeds: 2-1-23, 9-26-22, 5-29-12, 4-4-11, and 8-27-09. APN 306-18-009R – Overgrown weeds: 2-1-23 and 8-27-09.
Land Division Status:	Yes	X	No		APN 306-18-009Q October 21, 2004 – Result of split from APN 306-18-009L (Sibling Parcel APN 800-13-019). August 3, 2004 – Result of split from APN 306-18-009F (Sibling Parcels APN 306-18-009K, 306-18-009M, & 306-18-009N). January 21, 1999 – Result of split from APN 306-18-009E (Sibling Parcels APN 306-18-009G & 306-18-009H). APN 306-18-009R October 21, 2004 – Result of split from APN 306-18-009M (Sibling Parcel APN 800-13-020). August 3, 2004 – Result of split from APN 306-18-009F (Sibling Parcel APN 306-18-009K, 306-18-009L , & 306-18-009N). January 21, 1999 – Result of split from APN 306-18-009E (Sibling Parcels 306-18-009G & 306-18-009H).
Irrigation District:	N/A				
Detailed Narrative	This is a request by Adam Haywood, on behalf of Allen Nel, to rezone approximately 21 acres of land from Agricultural Residential 5-Acre (AR-5) to Single Family Residential 1-Acre (SR-1). The property is located at the southeast corner of N Road 1 East and Red Cinder Road, Chino Valley, Arizona.				

II. TOWN OF CHINO VALLEY GENERAL PLAN

Land Use Element:		
Land Use Designation:	Medium Density Residential (2 Acres or Less)	
Issues:	N/A	
Public Services Element:		
Water Facility Plan:	Source:	The applicant intends for the subdivision lots to be on individual wells. 16" and 12" Existing Town of Chino Valley water main is located 1,350ft south from site.
Sewer Facility Plan:	Treatment:	The applicant intends for the subdivision lots to be on individual septic systems. 12" Existing gravity main is located 1,350ft south from the site.
Issues:	N/A	
Safety Element:		
Flood Plain Designation:	N/A	
Issues:	N/A	
Transportation Element:		
Road Classification	Rural Road without Trail	
Issues:	N/A	
Parks and Rec Element:		
Closest Park:	Memory Park – 1.12 Miles	
Within 1 mile of the Peavine Trail?	Yes	

NOTIFICATION

- **Legal Ad Published:** (05/09/23)
- **600' Vicinity Mailing:** (04/17/23)
- **20 Commenting/Reviewing Agencies noticed:** (04/11/23)
- **Neighborhood Meeting:** (04/26/23)
- **Hearing Dates:** (06/06/23)
- **Comments Due:** (05/01/23)

<i>External List (Comments)</i>	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Samantha Alvarez – APS	N				
Richard Perez - A.D.O.T.	Y	5/2/2023		X	X
Ralph Baker – C.V.I.D.	Y	4/11/2023	X		
Keith Eaton - CAFMA	Y	4/13/2023	X		
Suzanne Ehrlich – YC ENV	N				
Monica Kriner – YC Health	Y	4/12/2023	X		
SparkLight Cable	N				
LUMEN (Previously Centurylink)	N				
Unisource Gas	N				
CVUSD	N				
United States Postal Service	N				
Mark Holmes – Water Advisor	Y	4/18/2023		X	X

<i>Town of Chino Valley Internal List (Conditions)</i>	Response Received	Date Received	“No Conditions”	Written Conditions	Comments Attached
Bethan Heng – Associate Planner (DS)	Y	5/2/2023		X	X
Will Dingee – Assistant Director (DS)	N				
Laurie Lineberry – DS Director	Y	5/2/2023		X	X
Frank Marbury – PW Director	Y	5/2/2023		X	X
Steve Sullivan – Assistant Engineer (PW)	N				
Dan Trout – CBO (DS)	N				
Damon Stanley or Tracey Dashiell – Code Enforcement	N				
Chuck Winn – Chief of Police (Police)	N				

When recorded, return to:

Town Clerk
Town of Chino Valley
202 N. State Route 89
Chino Valley, Arizona 86323

ORDINANCE NO. 2023-933

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, APPROVING A CHANGE OF ZONING AND AMENDMENT TO THE OFFICIAL ZONING MAP FOR APPROXIMATELY 21 ACRES OF REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF N ROAD 1 EAST AND RED CINDER ROAD, FROM AGRICULTURAL RESIDENTIAL 5-ACRE MINIMUM (AR-5) TO SINGLE FAMILY RESIDENTIAL 1-ACRE MINIMUM (SR-1).

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the "Town Council") desires to amend the Town of Chino Valley (the "Town") Official Zoning Map for approximately 21 acres of real property (Yavapai County Assessor Parcel Nos. 306-18-009Q and 306-18-009R) located at the southeast corner of N Road 1 East and Red Cinder Road, as described in Exhibit 1 and shown on the Zoning Map in Exhibit 2, both attached hereto and incorporated herein by reference, from Agricultural Residential 5-Acre Minimum (AR-5) to Single Family Residential 1-Acre Minimum (SR-1) (the "Zoning Map Amendment"); and

WHEREAS, the Town Council has determined that this Zoning Map Amendment conforms with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or other plan, any overlay zoning district, and the standards and design requirements contained in the Unified Development Ordinance of the Town of Chino Valley (the "UDO"); and

WHEREAS, all required public notice was provided, and all required public meetings and hearings were held, in accordance with applicable state and local laws; and

WHEREAS, the Town's Planning and Zoning Commission recommended approval of the Zoning Map Amendment; and

WHEREAS, in accordance with Article II, Sections 1 and 2 of the Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance; and

WHEREAS, the Town Council has considered the probable impact of this ordinance on the cost to construct housing for sale or rent;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. The Zoning Map Amendment is hereby approved, and the Official Zoning Map is hereby amended for property consisting of approximately 21 acres, as described in Exhibit 1 and shown on the Zoning Map in Exhibit 2, to rezone the property from Agricultural Residential

5-Acre Minimum (AR-5) to Single Family Residential 1-Acre Minimum (SR-1) to develop a subdivision of 16 to 17 1-acre lots, subject to the requirements of the Chino Valley Town Code, the UDO, and the following stipulations:

1. The property owner shall sign and notarize a Waiver of Claims form that the staff will record with the County Recorder against the property.
2. The owner shall deed-restrict development of the lots to site-built homes only.
3. The owner shall dedicate approximately 15' of additional right-of-way, for a total of 40' east of the west line of section 11 along North Road 1 East, per UDO § 5.3.2, Table 5-1 (Urban Arterial). The exact amount to be dedicated will be determined through a survey and subject to approval by the Town.
4. The owner shall improve the east half of North Road 1 East along the entire frontage of the property per the Town's Urban and Rural Roadways Map (Urban Road with Multi-Use Path) as follows:
 - a. 19' minimum asphalt paved road section (centerline to lip of gutter).
 - b. Concrete curb and gutter.
 - c. 5' concrete sidewalk.
5. The owner shall reconstruct the south half of Red Cinder Road that is adjacent to the property per UDO § 5.3.2, Table 5-1 (Rural Local Road), as follows:
 - a. 12' minimum asphalt road half-width.
 - b. 5' paved shoulder, thickened edge.
 - c. Bar ditch.
6. The owner shall dedicate and improve internal streets (full-width) per UDO § 5.3.2, Table 5-1 (Rural Local Road), as follows:
 - a. 50' minimum right-of-way.
 - b. 24' asphalt road width.
 - c. 5' paved shoulder, thickened edge.
 - d. Bar ditch.
 - e. At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of 35 feet for collector and arterial streets. This shall apply to existing adjacent streets and rights-of-way as well.
 - f. Cul-de-sac streets shall terminate in a circular right-of-way 60 feet in radius with a minimum improved traffic turning circle 48 feet in radius.
7. The owner shall enter into discussions with the Town about the following:
 - a. Possible connection to Town Water service.
 - b. Alignment of Road 3 North for possible access to the project.
 - c. Providing a Traffic Impact Statement.

Section 3. Pursuant to ARIZ. REV. STAT. § 9-462.01(E), if the property is not developed with a subdivision of 16 to 17 1-acre lots within five years of the effective date of this ordinance,

the Town Council may take legislative action to revert the zoning of the property to the prior zoning classification, Agricultural Residential 5-Acre Minimum (AR-5).

Section 4. The Town Manager is authorized and directed, upon the effective date of this ordinance, to cause the Official Zoning Map to reflect the Zoning Map Amendment as applicable to the property, indicating the zoning is subject to compliance with the stipulations provided herein.

Section 5. If any provision of this ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provisions, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. The Mayor, the Town Manager, the Town Clerk, and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 11th day of July 2023.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify the above foregoing Ordinance No. 2023-933 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on July 11, 2023, and that quorum was present, and that the vote thereon was ____ ayes and ____ nays and abstentions. ____ Council members were absent or excused.

Erin N. Deskins, Town Clerk

EXHIBIT 1
TO
ORDINANCE 2023-933

[Descriptions]

(APN 306-18-009Q)

PROPERTY DESCRIPTION
PARCEL 2

All that portion of Government Tract 53, located in Section 11, Township 16 North, Range 2 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows;

Commencing at the southwest corner of Government Tract 40 point also being an angle point on Government Tract 53 as recorded in Book 46 of Land Surveys, Page 15, on file in the office of the Yavapai County Recorder, Yavapai County, Arizona;

Thence, North 00°03'06" West, 25.00 feet along the east line of said Government Tract 53;

Thence, North 89°56'55" West, 997.12 feet to the **POINT OF BEGINNING**;

Thence, continuing North 89°56'55" West, 294.43 feet to a point on the east right-of-way of Road 1 East;

Thence, North 00°11'18" West, 739.96 feet along said right-of-way to a point on the south right-of-way of Red Cinder Road;

Thence, South 89°52'10" East, 294.43 feet along the said Red Cinder Road right-of-way;

Thence, South 00°11'18" East, 739.56 feet to the **POINT OF BEGINNING**.

Containing 5.00 acres, more or less.

6/8/04
04-111
Par-2



(APN 306-18-009R)

**PROPERTY DESCRIPTION
PARCEL 3**

All that portion of Government Tract 53, located in Section 11, Township 16 North, Range 2 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows;

Commencing at the southwest corner of Government Tract 40 point also being an angle point on Government Tract 53 as recorded in Book 46 of Land Surveys, Page 15, on file in the office of the Yavapai County Recorder, Yavapai County, Arizona;

Thence, North 00°03'06" West, 25.00 feet along the east line of said Government Tract 53 to the **POINT OF BEGINNING**;

Thence, North 89°56'55" West, 997.12 feet;

Thence, North 00°11'18" West, 739.56 feet to a point on the south right-of-way of Red Cinder Road;

Thence, South 89°52'10" East, 998.88 feet to a point on the east line of said Tract 53;

Thence, South 00°03'06" East, 738.18 feet to the **POINT OF BEGINNING**.

Containing 16.928 acres, more or less.

6/8/04
04-111
Par-3

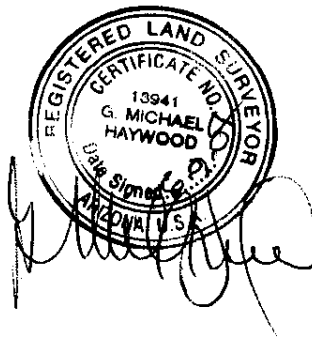
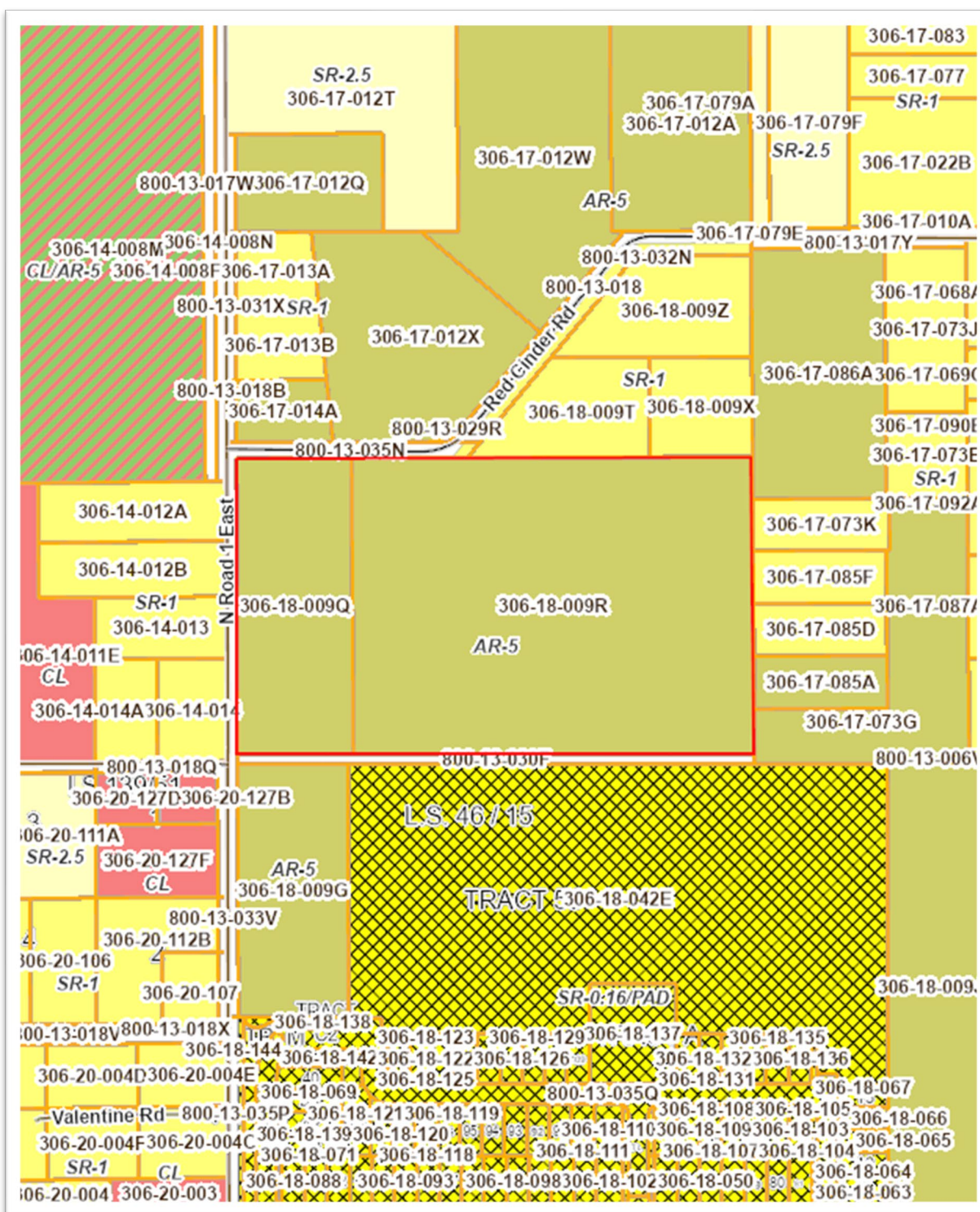


EXHIBIT 2
TO
ORDINANCE 2023-933

[Zoning Map]





TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting 2023

6. e.

Meeting Date: 08/22/2023
Contact Person: Will Dingee, Assistant Development Services Director
Department: Development Services
Estimated length of staff presentation: 5 minutes
Physical location of item: 443 W. Palomino Road

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve Ordinance No. 2023-934 to rezone approximately 1.5 acres of real property located at 443 West Palomino Road (APN 306-06-035A and APN 306-06-036) from Commercial Light to Multiple Family Residential.

RECOMMENDED ACTION:

- i) Hold a Public Hearing
- ii) Approve Ordinance No. 2023-934

Fiscal Impact

Fiscal Impact?: N/A
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Staff Report w/ Attachments
 ORD - 2023-934 - Palomino Apartments Rezone CL to MR



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM #	3784	☒ Ordinance
MEETING DATE:	August 22, 2023	☐ Resolution
CONTACT PERSON:	Will Dingee, Assistant Director - Development Services	☒ Public Hearing
		☐ Contract/IGA/PSA

Case/Project Description:

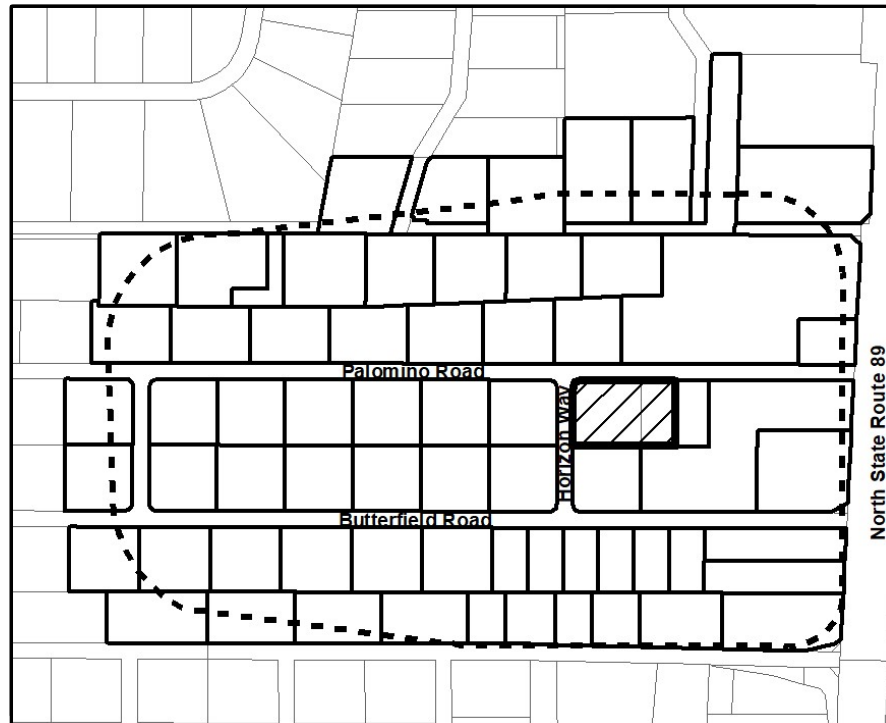
This is a request by Luis Pescador, on behalf of Equity Trust Company, to rezone approximately 1.5 acres from Commercial Light (CL) to Multiple Family Residential (MR) for the construction of an apartment complex containing 14 units. The property is located at 443 West Palomino Road, Chino Valley, Arizona.

Planning and Zoning Recommended Action

The Planning Commission forwarded a recommendation of approval with a 6-1 Vote.

See Attachment 1 for the Conditions of Approval

Location Map:



Location Data:

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Commercial Light (CL)	Vacant	Multifamily/Commercial
North	Commercial Light (CL)	Saving Grace Lutheran Church	Multifamily/Commercial
South	Commercial Light (CL)	Horizon Dental	Multifamily/Commercial
East	Commercial Light (CL)	M&M Eye	Multifamily/Commercial
West	Commercial Light (CL)	Manneken Plaza Apartments	Multifamily/Commercial

Neighborhood Meeting:

A neighborhood meeting was held on site, June 22, 2023, with nine (9) community members in attendance.

- Questions if the applicant is intending for the apartment to be market rate or low income and how many units were planned.
- Questions if the applicant intended to be on Town water and sewer, or individual wells and septic systems.
- Concerns over impact on water availability.
- Concerns over increase in traffic and negatively impacting road quality.
- Concerns over lighting used for the development.

Additional Public Comment:

See Attachment 2 for a detailed dialog from the P&Z Meeting.

See Attachment 3 for letter(s) received from the public.

FISCAL IMPACT?

N/A

Attachments

Attachment 1 – Conditions

Attachment 2 – P&Z Minutes

Attachment 3 – Public Letter(s)

Attachment 4 – P&Z Staff Report

Attachment 1
Conditions of Approval
ZC-2023-03
Town Council
August 22, 2023

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928-636-3471

3. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
4. The Owner shall sign a Waiver of Claims form, which the Town will provide and record with the Yavapai County Recorder's Office, prior to the rezone being heard by the Town Council.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

Attachment 2
Minutes - P&Z August 1, 2023
ZC-2023-03
Town Council
August 22, 2023

PUBLIC HEARING #D.2 – CASE# ZC-2023-03 – *This is a request by Luis Pescador, on behalf of Equity Trust Company, to rezone approximately 1.5 acres from Commercial Light (CL) to Multiple Family Residential (MR) for the construction of an apartment complex containing 14 units. The property is located at 443 West Palomino Road, Chino Valley, Arizona.*

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. **Merritt** disclosed that the estimator working for his company owned property within the notification radius and attended the neighborhood meeting, brought up the project to him, but they had no discussion about the case itself.

Dingee presented the staff report, identifying concerns from the neighborhood meeting. The applicant was in attendance.

Switzer clarified that the current zoning and surrounding multi-family uses do not meet the current UDO. **Dingee** confirmed that the existing multi-family uses are non-conforming with the current zoning code. Discussion regarding the 2014 and the 2040 General Plan ensued and how they relate to this project. **Switzer** felt that the area was over the maximum 25% residential allowed in the HMU of the 2040 General Plan. Staff did not agree.

Luis Pescador, applicant, identified that the town needs this type of project. That it will be like the apartment complex across the street to the west. These apartments will be Market Rate apartments. He stated he would emulate the Manneken Apartments to the west.

Merritt opened the public portion of the hearing.

Virginia Foster has lived on the single-family parcel to the west of the Manneken Apartments for 28 years. She voiced concerns about the roads, the growth of the town, the conditions of the roads and the lack of infrastructure. She was concerned about approving a high-density project in a rural area. Her well is not far from the Manneken Apartments septic field. She stated she was not happy about the potential increase in noise and congestion and inquired about adequate water flow in case of fire. This project would not help alleviate any of those issues.

Sharon Namps of 580 Butterfield Road three houses away from the site. She reflected that current code only allowing apartments in Commercial Light with a CUP. The new General Plan designation of HMU will allow a maximum of 8 dwelling units per acre. This project could only build 12 units, not 14 as proposed. With 2.2 people per unit, this project would generate 30.8 people living on 1.5 acres. The surrounding area is zoned SR-1 equating to 2.2 people per acre. She read Land Use Policy 8.3 from the 2040 General Plan and stated that this project was not consistent in intensity and lacks sidewalks or walking paths. Land Use Policy 9.2 suggests that Old Home Manor (OHM) would be used for multi-family density residential. She believed that OHM would be a better location for this dense project. For the reasons she previously stated and because of the increased traffic on already deteriorated streets, the potential degradation to the surrounding SR-1 community and increased water usage, Nampo asked the Commission to deny the project.

Merritt closed the public comment portion of the hearing.

Merritt asked about development standards if this project develops. **Dingee** listed landscaping, parking, equipment placement, building architecture and lighting as areas of review by staff. **Frank Marbury**, Public Works Director, stated that he works off the current codes, and added that this is considered a single property and no sidewalks are required by current code. He added that 14 apartments would generate about 90 trips per day, which is less than what the trips could be if this site was commercial,

such as medical, restaurant, etc. He also stated that water usage would probably be less than a restaurant or other commercial use.

Merritt added that well and septic would be required to meet the agency requirements. Fire also has requirements that would be addressed during the next step in the process. He added that this location provides all the amenities within walking distance, shopping, banking, restaurants, etc.

Penn asked if current code allows 12 or 14 dwelling units. **Dingee** stated that under the current zoning of multi-family, one unit is allowed per 3,000 square feet of lot area, or 20 units.

Merritt stated that this is only two units over the 2040 General Plan standards.

Merritt closed the public comment period. He added that the concerns heard at each meeting regarding traffic, fire, septic, water are all legitimate, however without voters' approval for road bonds, they will remain as is.

Pescador responded to the public comments. **Merritt** asked if he would be willing to consider installing sidewalks with his project. **Pescador** responded he would if it penciled out financially.

Motion was made by Pasciak, seconded by Meadors to approve ZC-2023-03, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A. A roll-call vote was taken and the motion passed with a 6-1 vote.

Merritt asked each of the commissioners to explain their vote. They are as follows:

- **Welker** – Voted yes, and stated he felt this project was compatible with other uses in this area.
- **Penn** – Voted yes, and said it would be hard to say no, considering the surrounding areas, but he would be more comfortable if the project contained 12 units instead of the proposed 14 units.
- **Meadors** – Voted yes, stating that traffic would not be going through the existing neighborhood, that the apartment complex would be within walking distance to multiple businesses, and felt it was a good location for the project.
- **Switzer** - Voted no, expressing his concern that the project didn't conform to the current UDO. He said the 2040 general plan HMU land use designation required buffer zones and didn't feel that multi-family next to commercial was appropriate. He did not feel that this was the proper location for the project.
- **Zamudio** – Voted yes and felt that the rezone was in compliance with the General Plan and that the buffer is within reason. He noted that the commission cannot currently use the new 2040 General Plan and stated that this proposal met the current General Plan.
- **Pasciak** - Voted yes and stated that this rezone was consistent with the current general plan, as multi-family commercial. The developments surrounding this location are on well and septic, so he did not have an issue with this project being on well and septic also. He stated he understood that the 14 units might change depending on what is approved with the septic, so it might end up being 12 units. He reiterated about the public expressing concerns about the road conditions within the town, at every Planning Commission meeting, and reminded everyone that in 2019 the public chose to not approve the road initiative that was on the ballot to generate a tax for roadway improvements.
- **Merritt** - Voted yes and said he agreed with the yes votes and understood the no vote. He shared that this location and the folks that live there have the opportunity to walk every place they would need during everyday living. He felt the traffic generated would most likely head east to the highway or they would walk around the neighborhood to reach what they

needed. The traffic would probably not be going to the west, as a general rule. He also shared that the town continues to do what it can to bring infrastructure to other areas within the town. He mirrored Pasciak about the road tax that went to a vote to fix the roads, but people voted no as they did not want to pay for it. This project fits the area and it helps create a walkable area for people to live..

Attachment 3
Letter(s) from the Public
ZC-2023-03
Town Council
August 22, 2023

TOWN OF CHINO VALLEY

CASE # ZC2023-03

ATT; PLANNING AND ZONING
TOWN CONTACT; ASSISTANT DIRECTOR
WILL DINGEE

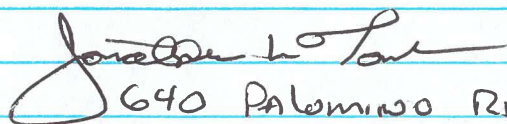
HOME-OWNER; JONATHAN L. TOMLIN
640 PALOMINO RD
CHINO VALLEY AZ 86323

MY CONCERNS ARE THE REZONING OF THIS
PROPERTY AT 399 WEST PALOMINO RD FROM
COMMERCIAL LIGHT TO MULTIPLE FAMILY AND
BUILDING A 14 UNIT APARTMENT COMPLEX ON
THIS PROPERTY BECAUSE OF THE FOLLOWING CONCERNS;

- (1) LARGE RATE OF VEHICLE TRAFFIC
- (2) DANGER TO CHILDREN ON BICYCLES, SKATEBOARDS
SCOOTERS AND WALKING TO SCHOOL IN MORNING HOURS
AND TO MEMORY PARK TO PLAY. NO SIDEWALKS
- (3) AIR POLLUTION WITH 28 MORE CARS
- (4) LIGHT POLLUTION FROM PARKING LOT
- (5) DOG NOISES
- (6) WATER LEVEL IN AQUIFERS WILL SUFFER
- (7) THE NEED FOR SEWER/WATER SERVICE
- (8) THE OVER CROWDING

" I HOPE THAT YOU VALUE THE CURRENT NEIGHBORS
THAN THE DEVELOPERS PROFIT "

THANKS YOU FOR LISTENING TO MY CONCERNS


640 PALOMINO RD

Attachment 4
Staff Report – P&Z August 1, 2023
ZC-2023-03
Town Council
August 22, 2023



TOWN OF CHINO VALLEY
Planning Commission Staff Report
August 1, 2023
File Number ZC-2023-03
Rezone

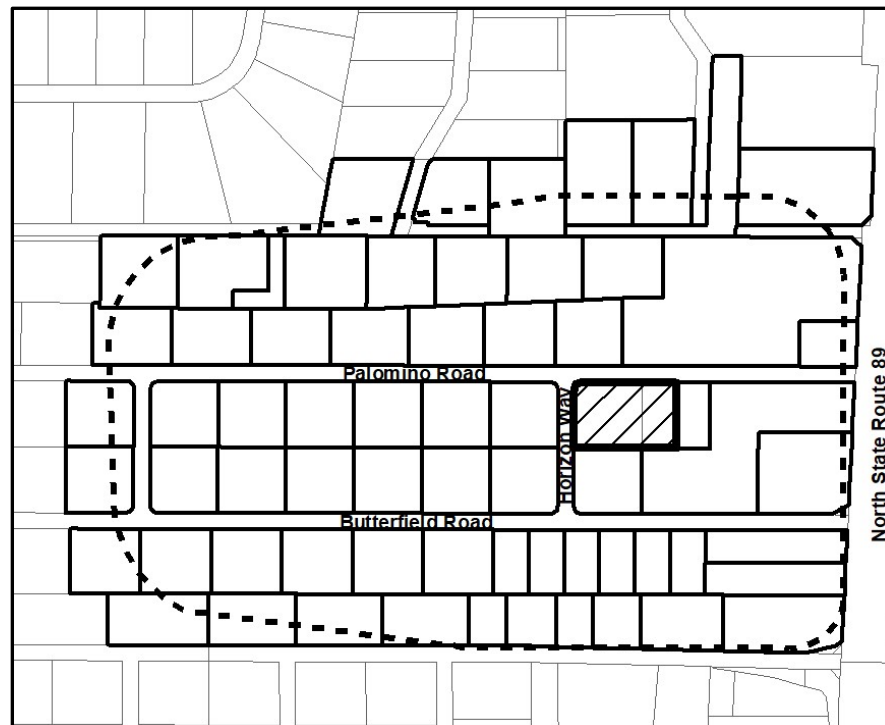
PROJECT DESCRIPTION

This is a request by Luis Pescador, on behalf of Equity Trust Company, to rezone approximately 1.5 acres from Commercial Light (CL) to Multiple Family Residential (MR) for the construction of an apartment complex containing 14 units. The property is located at 443 West Palomino Road, Chino Valley, Arizona.

LOCATION DATA

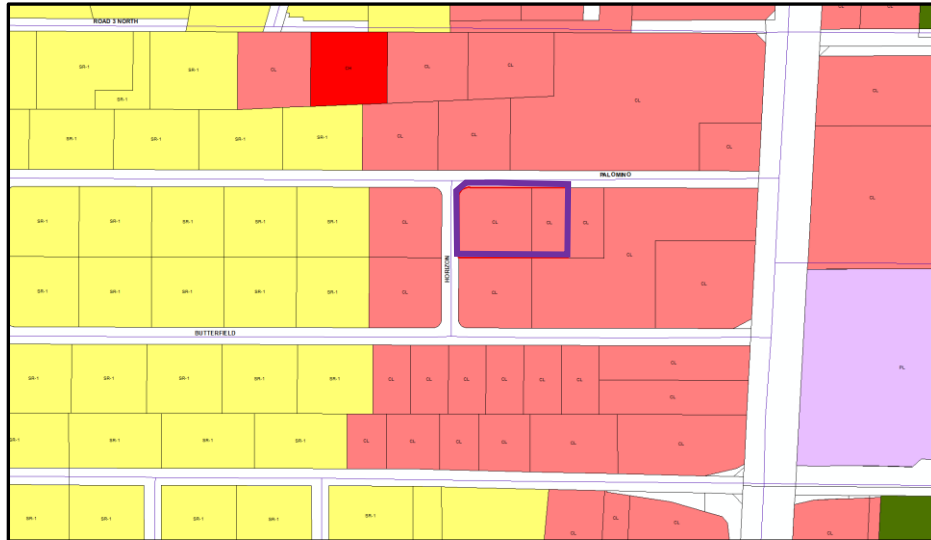
	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Commercial Light (CL)	Vacant	Multifamily/Commercial
North	Commercial Light (CL)	Saving Grace Lutheran Church	Multifamily/Commercial
South	Commercial Light (CL)	Horizon Dental	Multifamily/Commercial
East	Commercial Light (CL)	M&M Eye	Multifamily/Commercial
West	Commercial Light (CL)	Manneken Plaza Apartments	Multifamily/Commercial

LOCATION MAP



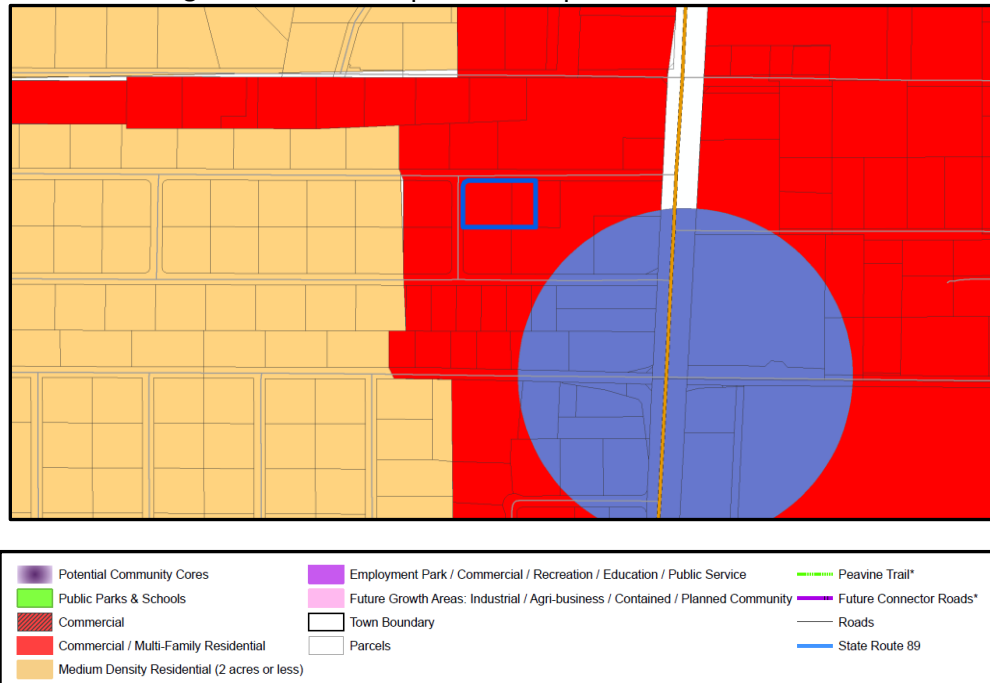
Zoning

Section 3.13 of the Unified Development Ordinance lists “multiple family dwellings” as a Permitted Use in the MR zoning district so long as each unit has a minimum of 3,000 square feet of land area. The applicant is proposing 14 apartment units on 1.5 acres, the MR zoning district would allow up to 22 units on site. This will be the only parcel zoned MR in the area however, there are several established multifamily uses within 300’ of the subject property which includes apartments and duplexes.



General Plan

The 2014 General Plan designates the subject property as Commercial / Multi-Family Residential. The requested rezone of MR is in conformance with the General Plan. The 2040 General Plan designates this area as part of the Up-Town Center Horizontal Multi-Use Area.



PUBLIC COMMENTS RECEIVED: No public comments were received.

EXTERNAL AGENCY COMMENTS: No External Agency Comments were received

NEIGHBORHOOD MEETING COMMENTS: See Attachment B

PROPOSED CONDITIONS DELIVERED July 12, 2023
TO APPLICANT ON:

☒	Applicant agreed with all of the conditions of approval on July 12, 2023
☐	Applicant did not agree with the following conditions of approval: (list #'s)
☐	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

ATTACHMENTS:

A	B	C	D
Conditions of Approval	Neighborhood Meeting Comments	Site Plan & Exhibits	Staff Research

PREPARED BY:

DATE:

WILL DINGEE – ASSISTANT DIRECTOR
 WDINGEE@CHINOAZ.NET
 928 636-4427 – x3472

July 12, 2023

APPROVED BY:



LAURIE LINEBERRY, AICP
 DEVELOPMENT SERVICES DIRECTOR

ATTACHMENT A CONDITIONS OF APPROVAL
--

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928-636-3471

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner shall sign a Waiver of Claims form, which the Town will provide and record with the Yavapai County Recorder's Office, prior to the rezone being heard by the Town Council.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
NEIGHBORHOOD MEETING COMMENTS

DATE MEETING HELD: JUNE 22, 2023

LOCATION: ON SITE (443 PALOMINO ROAD)

ATTENDEES:

AGENT/DEVELOPER: LUIS PESCADOR

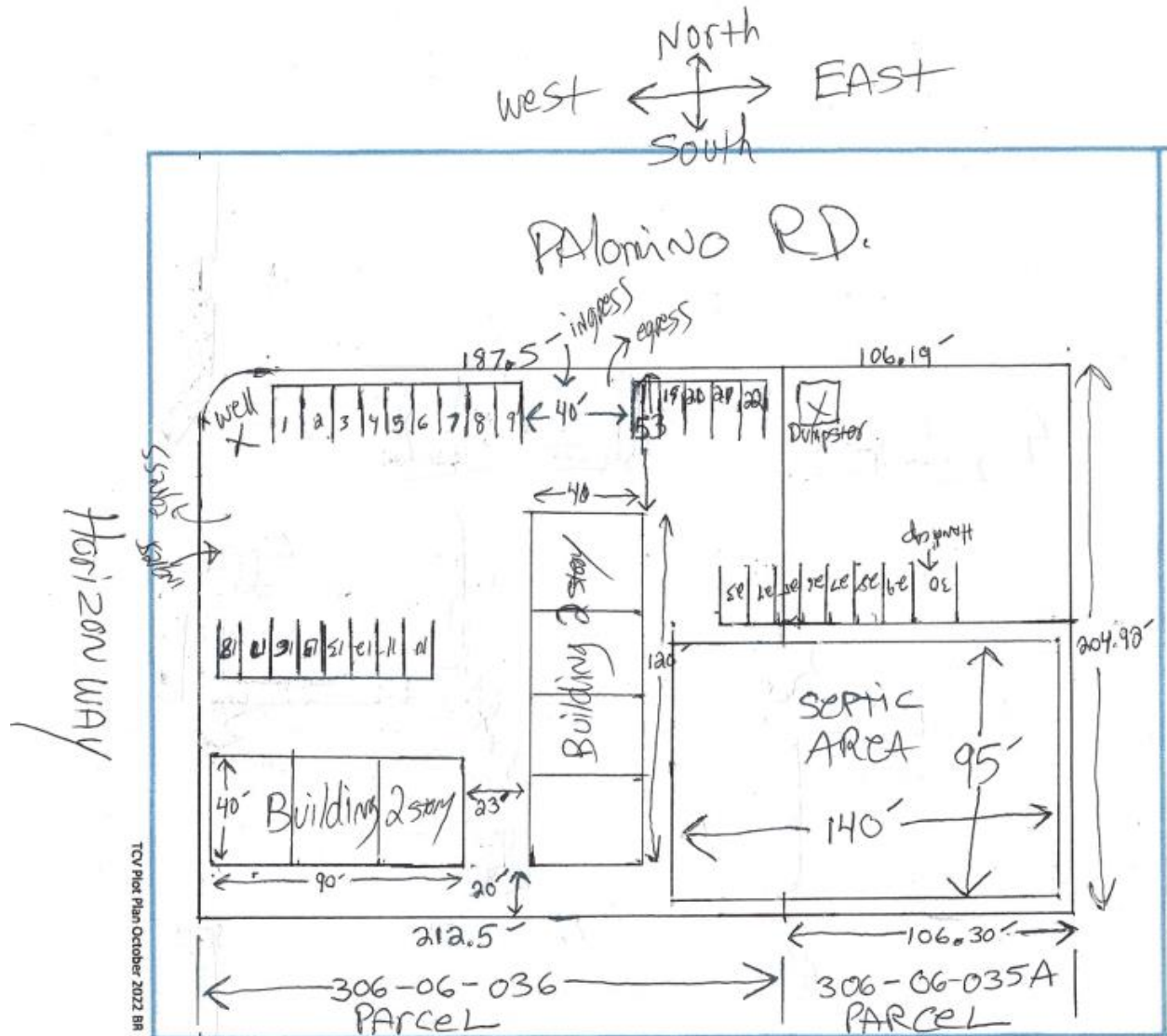
TOWN STAFF: WILL DINGEE, ASSISTANT DEVELOPMENT SERVICES DIRECTOR

NUMBER NEIGHBORS IN ATTENDANCE – NINE NEIGHBORS WERE IN ATTENDANCE

SUMMARY OF ATTENDEE(S') COMMENTS RELATED TO THE PROJECT:

- Questions if the applicant is intending for the apartment to be market rate or low income and how many units were planned.
- Questions if the applicant intended to be on Town water and sewer, or individual wells and septic systems.
- Concerns over impact on water availability.
- Concerns over increase in traffic and negatively impacting road quality.
- Concerns over lighting used for the development.

ATTACHMENT B
NEIGHBORHOOD MEETING COMMENTS



ATTACHMENT D
STAFF RESEARCH



STAFF RESEARCH – REZONE

CASE #: ZC-2023-03

CASE PLANNER: WILL DINGEE

PROJECT NARRATIVE: This is a request by Luis Pescador, on behalf of Equity Trust Company, to rezone approximately 1.5 acres from Commercial Light (CL) to Multiple Family Residential (MR) for the construction of an apartment complex containing 14 units. The property is located at 399 West Palomino Road, Chino Valley, Arizona.

I. PROJECT DATA

Project Location:		SEC of Palomino Road and Horizon Way			
Parcel Number(s):		306-06-036 & 306-06-035A			
Parcel Size(s):		1 Acre (036) & .5 Acre (035A)			
Total Acreage:		1.5 Acres			
Proposed Dwelling Units:		14		Total number will ultimately depend on septic approval. MR zoning allows for one unit per 3,000 square feet of land (max of 22)*	
Address:		443 Palomino Road			
Applicant:		Equity Trust Company			
Applicant's Agent:		Luis Pescador			
Land Use Conformity Matrix:		Conforms:	Yes	X	No
Zoning Overlay	PAD	N/A			
	Existing Zoning	Use(s) on-site		General Plan Designation	
Site	Commercial Light (CL)	Vacant		Multifamily/Commercial	
North	Commercial Light (CL)	Saving Grace Lutheran Church		Multifamily/Commercial	
South	Commercial Light (CL)	Horizon Dental		Multifamily/Commercial	
East	Commercial Light (CL)	M&M Eye		Multifamily/Commercial	
West	Commercial Light (CL)	Manneken Plaza Apartments		Multifamily/Commercial	
Prior Cases or Related Actions:					
<u>Type</u>					<u>Cases, Actions or Agreements</u>
Pre-Annexation Agreement	Yes		No	X	
Annexation	Yes	x	No		Original Town – September 21, 1970
General Plan Amendment	Yes		No	x	
Development Agreement	Yes		No	x	
Rezone	Yes	x	No		Rezoned to Commercial. Ordinance No. 10. September 14, 1970
Subdivision	Yes	x	No		Luna Estates – June 15, 1973
Conditional Use Permit	Yes		No	x	
Pre-Application Meeting	Yes	x	No		PA-2023-30 & PA-2023-37
Enforcement Actions	Yes		No	x	

ATTACHMENT D
STAFF RESEARCH

Land Division Status:	Legal Non-conforming, 306-06-035A was split without a Subdivision Plat Amendment.
Irrigation District:	N/A

II. TOWN OF CHINO VALLEY GENERAL PLAN

Land Use Element:		
Land Use Designation:	Commercial/Multifamily	
Issues:		
Public Services Element:		
Water Facility Plan:	Source:	Proposed Well
Sewer Facility Plan:	Treatment:	Proposed Septic
Issues:	Closest Municipal Water and Sewer is ¾ of a mile away at the intersection of Perkinsville Road and North Road 1 East	
Safety Element:		
Flood Plain Designation:	N/A	
Issues:		
Transportation Element:		
Road Classification	Horizon Way – Local Road Palomino Road – Local Road	
Issues:		
Parks and Rec Element:		
Closest Park:	Memory Park	
Within 1 mile of the Peavine Trail?	No	

NOTIFICATION

- Legal Ad Published: The Daily Courier 7/10/2023
- Neighborhood Meeting: 6/22/2023
- 300' Vicinity Mailing: 6/12/2023
- Hearing Dates: P&Z 8/1/23 - TC 8/22/23
- 19 Commenting/Reviewing Agencies noticed: 6/12/2023
- Comments Due: 6/26/2023

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
CAFMA			X	x	
Samantha Alvarez – APS			X		
Richard Perez - A.D.O.T.			X		
Ralph Baker – C.V.I.D.			X		
Suzann E. – YC ENV			X		
Jose Galvez – YC Health			X		
SparkLite Cable			X		
LUMEN			X		
Unisource Gas			X		
CVUSD			X		
United States Postal Service			X		

ATTACHMENT D
STAFF RESEARCH

<i>Town of Chino Valley Internal List (Conditions)</i>	Response Received	Date Received	“No Conditions”	Written Conditions	Comments Attached
Will Dingee – Senior Planner (DS)			X		
Laurie Lineberry – DS Director				X	
Frank Marbury – PW Director			X		
Steve Sullivan – Assistant Engineer (PW)			X		
Dan Trout – CBO (DS)			X		
Damon Stanley – Code Enforcement			X		
Chuck Winn – Chief of Police (Police)			X		

When recorded, return to:

Town Clerk
Town of Chino Valley
202 N. State Route 89
Chino Valley, Arizona 86323

ORDINANCE NO. 2023-934

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, APPROVING A CHANGE OF ZONING AND AMENDMENT TO THE OFFICIAL ZONING MAP FOR APPROXIMATELY 1.5 ACRES OF REAL PROPERTY LOCATED AT 443 WEST PALOMINO ROAD, FROM COMMERCIAL LIGHT (CL) TO MULTIPLE FAMILY RESIDENTIAL (MR).

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the "Town Council") desires to amend the Town of Chino Valley (the "Town") Official Zoning Map for approximately 1.5 acres of real property (Yavapai County Assessor Parcel Nos. 306-06-035A & 306-06-036) located at 443 West Palomino Road, as described in Exhibit 1 and shown on the Zoning Map in Exhibit 2, both attached hereto and incorporated herein by reference, from Commercial Light (CL) to Multiple Family Residential (MR) (the "Zoning Map Amendment"); and

WHEREAS, the Town Council has determined that this Zoning Map Amendment conforms with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or other plan, any overlay zoning district, and the standards and design requirements contained in the Unified Development Ordinance of the Town of Chino Valley (the "UDO"); and

WHEREAS, all required public notice was provided, and all required public meetings and hearings were held, in accordance with applicable state and local laws; and

WHEREAS, the Town's Planning and Zoning Commission recommended approval of the Zoning Map Amendment; and

WHEREAS, in accordance with Article II, Sections 1 and 2 of the Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance; and

WHEREAS, the Town Council has considered the probable impact of this ordinance on the cost to construct housing for sale or rent;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. The Zoning Map Amendment is hereby approved, and the Official Zoning Map is hereby amended for property consisting of approximately 1.5 acres, as described in Exhibit 1 and shown on the Zoning Map in Exhibit 2, to rezone the property from Commercial Light (CL) to Multiple Family Residential (MR) for the construction of a 14-unit apartment complex, subject to the requirements of the Chino Valley Town Code, the UDO, and the following stipulation:

1. The property owner shall sign and notarize a Waiver of Claims form that the staff will record with the County Recorder against the property.

Section 3. The Town Manager is authorized and directed, upon the effective date of this ordinance, to cause the Official Zoning Map to reflect the Zoning Map Amendment as applicable to the property, indicating the zoning is subject to compliance with the stipulations provided herein.

Section 4. If any provision of this ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provisions, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. The Mayor, the Town Manager, the Town Clerk, and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 22nd day of August 2023.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify the above foregoing Ordinance No. 2023-934 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on August 22, 2023, and that quorum was present, and that the vote thereon was ____ ayes and ____ nays and abstentions. ____ Council members were absent or excused.

Erin N. Deskins, Town Clerk

EXHIBIT 1
TO
ORDINANCE 2023-934

[Descriptions]

(APN 306-06-035A & 306-06-036)

All of Lot 36 and that portion of Lot 35, LUNA ESTATES AMENDED, according to the plat of records in Book 17 of Maps, Page 71, records of Yavapai County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Lot 35, the TRUE POINT OF BEGINNING;

Thence North 00 degrees, 12 minutes West, 205.00 feet;

Thence North 89 degrees, 48 minutes, 10 seconds East, 106.25 feet;

Thence South 00 degrees, 12 minutes East, 205.00 feet;

Thence South 89 degrees, 48 minutes, 10 seconds West, 106.25 feet to the TRUE POINT OF BEGINNING.

EXHIBIT 2
TO
ORDINANCE 2023-934

[Zoning Map]

