



TOWN COUNCIL NOTICE & AGENDA

EXECUTIVE SESSION
TUESDAY, SEPTEMBER 10, 2024
5:00 PM

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

AGENDA

- 1. CALL TO ORDER; ROLL CALL**
- 2. An executive session pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the attorneys for the Town regarding a notice received from Pima County IDA.**
- 3. Executive Session pursuant to A.R.S. § 38-431.01 (A)(3) & (4) with the attorneys for the Town in order to consider the Town's position and instruct its attorneys regarding the Town's position regarding the Paul D. Levie, *et al.* v. Town of Chino Valley matter.**
- 4. ADJOURNMENT**



TOWN COUNCIL NOTICE & AGENDA

REGULAR MEETING
TUESDAY, SEPTEMBER 10, 2024
6:00 PM

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. Announcement and swearing in ceremony for the appointment of Joshua McIntire as Chino Valley Police Chief.**
 - b. Presentation by Cyndi Thomas, Community Services Director, on the successful 2024 Territorial Days.**
- 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 Acting Town Manager Terri Denemy 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 approve the Cooperative Purchasing Agreement for the purchase of a 2024 Ford F150 Police Responder from San Tan Ford for \$52,722.75.
- b. Consideration and possible action to approve the Cooperative Purchasing Agreement for the purchase of a 2024 Ford F150 4x4 SuperCab pickup from San Tan Ford for \$49,997.57.
- c. Consideration and possible action to approve the Cooperative Purchasing Agreement for the purchase of a Trail King Transport Trailer from Empire Truck & Trailer for \$53,548.84.
- d. Consideration and possible action to approve the August 13, 2024, special meeting minutes.
- e. Consideration and possible action to approve the August 27, 2024, special 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. Public hearing, consideration, and possible action to approve Ordinance No. 2024-945, to rezone approximately 1.5 acres of vacant land located at 3381 N State Route 89 from Commercial Light/Agricultural Residential, 5-acre minimum (CL/AR-5), to Commercial Heavy (CH).

Recommended Action: i) Hold a Public Hearing ii) Approve Ordinance No. 2024-945

- b. Public hearing, consideration, and possible action to approve Ordinance No. 2024-946, to rezone approximately 10 acres of land located on the north side of East Road 2 North, between Peppertree Place and James Drive, from Agricultural Residential, 5-Acre Minimum (AR-5), to Single Family Residential, 12,000 square foot minimum (SF-12,000).

Recommended Action: i) Hold a Public Hearing ii) Approve Ordinance No. 2024-946

- c. Public hearing, consideration, and possible action to approve Ordinance No. 2024-943, amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, to define metal storage containers, to allow metal storage containers as accessory structures in certain zoning districts, and to add Section 4.32, Metal Storage Containers.

Recommended Action: i) Hold a Public Hearing ii) Approve Ordinance No. 2024-943

- d. Consideration and possible action to allow a policy deviation for offsite improvements to South Road 1 West adjacent to the proposed Homestead Subdivision.

Recommended Action: Staff recommends Council approve one of the following three options:

1. Direct Staff to enforce the current policy of a 24' roadway with 5' paved shoulders and relocating power poles as necessary to maintain AASHTO clearzone standards, or
2. Approve a policy deviation for offsite improvements to South Road 1 West adjacent to the proposed Homestead Subdivision to allow the use of a 24' roadway with curb and gutter in this rural area, or
3. Approve a policy deviation for offsite improvements to South Road 1 West adjacent to the proposed Homestead Subdivision to allow the use of a 24' roadway with approximately 2' paved shoulders and guardrail as needed at the power pole location.

- e. Consideration and possible action to approve Resolution No. 2024-1270 regarding the Notice received from the Industrial Development Authority of the County of Pima.

Recommended Action: Approve Resolution No. 2024-1270 regarding the Notice received from the Industrial Development Authority of the County of Pima.

- f. Consideration and possible action relating to potential appeal in the Paul D. Levie, *et al.* v. Town of Chino Valley matter.

Recommended Action: Direct staff regarding the options related to the Paul D. Levie, *et al.* v. Town of Chino Valley matter.

- g. Consideration, discussion, and possible action regarding the recruitment process for the position of Town Manager.

Recommended Action: Direct staff on the recruiting process for the position of Town Manager.

7. ADJOURNMENT

Dated this 4th day of September, 2024.

By: *Erin N. Deskins, Town Clerk*

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 928-636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request reasonable accommodation to participate in this meeting.

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 COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 5a
MEETING DATE: 9/10/2024
CONTACT PERSON: Frank Marbury, Public Works Director/Town Engineer
ITEM TYPE: Consent Item

AGENDA ITEM TITLE:

Consideration and possible action to approve the Cooperative Purchasing Agreement for the purchase of a 2024 Ford F150 Police Responder from San Tan Ford for \$52,722.75.

SUMMARY:

The Fleet department is requesting approval to purchase a ½ ton pickup truck - a K9 for the Police Department. This truck will see constant use and is a critical part of supporting the Police department's goals. The ½ ton truck will replace a unit that is approaching 20 years in service, well exceeding recommended replacement intervals.

PREVIOUS ACTION:

N/A

STAFF RECOMMENDATION:

Approve the Cooperative Purchasing Agreement for the purchase of a 2024 Ford F150 Police Responder from San Tan Ford for \$52,722.75.

FISCAL IMPACT?

Available budget: Capital Asset Replacement - Police Cars - K9 Replacement Vehicle	\$100,000.00
Less this approval item: 2024 Ford F150 Police Responder from San Tan Ford	<u>-52,722.75</u>
Remaining budget: Capital Asset Replacement - Police Cars - K9 Replacement Vehicle (for vehicle upfitting)	\$47,277.25

ATTACHMENTS:

1.	AGR - CPA - San Tan Ford - 2024 Ford F150 Police Responder
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**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
SAN TAN AUTO PARTNERS, LLC,
DBA SAN TAN FORD**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of September 10, 2024, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and San Tan Auto Partners, LLC, an Arizona limited liability company dba San Tan Ford (the “Vendor”). The Town and the Vendor are the only parties to this Agreement; they are each individually a “Party,” and together they are the “Parties.”

RECITALS

A. After a competitive procurement process, the State of Arizona (the “State”) entered into Contract No. CTR059323, dated March 17, 2022, as amended by Amendments No. 1 (undated) and No. 2 (undated) (collectively, the “State Contract”), with the Vendor for the purchase of new vehicles. 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 vehicles under the State Contract, at its discretion, and with the agreement of the Vendor.

C. The Town and the Vendor 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 Vendor may provide the Town with one 2024 Ford F150 Police Responder, as more particularly set forth in Section 2 below (the “Vehicle”), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Vehicle.

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 Parties 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, 2025, unless terminated as otherwise provided in this Agreement or the State Contract.

2. Scope of Work. The Vendor shall provide the Vehicle to the Town under the terms and conditions of the State Contract and in the configuration set forth in Quote ID 71724-4 (the “Purchase Order”), attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. The Vehicle is subject to final inspection and acceptance by the Town. A Vehicle failing to conform to the requirements of this Agreement and/or the State Contract will be held at the Vendor's risk and may be returned to the Vendor. If so returned, all costs are the responsibility of the Vendor. Upon discovery of a non-conforming Vehicle, the Town may elect to do either of the following by written notice to the Vendor: (i) waive the non-conformance or (ii) bring the Vehicle into compliance and withhold the cost of same from any payments due to the Vendor.

4. Compensation. The Town shall pay the Vendor an amount not to exceed \$52,722.75 for the Vehicle at the unit rate set forth in the State Contract and as more particularly set forth in the Purchase Order.

5. Payments. The Town shall pay the Vendor upon delivery and acceptance of the Vehicle and upon submission and approval of the invoice. The invoice shall (i) contain a reference to this Agreement and the State Contract and (ii) document the Vehicle delivered and accepted to date. Additionally, an invoice submitted without referencing this Agreement and the State Contract will be subject to rejection and may be returned.

6. Records and Audit Rights. To ensure that the Vendor and its subcontractors are complying with the warranty under Section 7 below, the Vendor'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 Vendor'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 evaluation of the Vendor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 7 below. To the extent necessary for the Town to audit Records as set forth in this Section, the Vendor 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 Vendor pursuant to this Agreement. The Vendor 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 Vendor or its subcontractors reasonable advance notice of intended audits. The Vendor 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.

7. E-Verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Vendor 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 Vendor's or its subcontractors' 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.

8. Israel. To the extent applicable under ARIZ. REV. STAT. § 35-393 through § 35-393.03, 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.

9. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

10. 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.

11. 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 Vendor 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 Vendor 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.

12. Conflicting Terms. In the event of any inconsistency, conflict, or ambiguity among the terms of this Agreement, including any amendments, the State Contract, the Purchase Order, and the invoice, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement or the State Contract (collectively, the “Unauthorized Conditions”), other than the Town’s project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the State Contract shall not alter such terms and conditions or relieve the Vendor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

13. 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.

14. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 13 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 Vendor's obligation to provide the indemnification and insurance.

15. 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, 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:

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 PLC
 One East Washington Street, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire

If to the Vendor: San Tan Auto Partners, LLC, dba San Tan Ford
 1429 East Motorplex Loop
 Gilbert, Arizona 85297-0410
 Attn: Joe Sanchez

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.

16. Forced Labor of Ethnic Uyghurs. To the extent applicable under ARIZ. REV. STAT. § 35-394, the Vendor 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 Vendor 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 Vendor 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 its termination date.

17. Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which constitutes an original, but all of which together constitute one and the same Agreement.

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

“Town”

TOWN OF CHINO VALLEY,
an Arizona municipal corporation

“Vendor”

SAN TAN AUTO PARTNERS, LLC,
an Arizona limited liability company dba
SAN TAN FORD

Jack W. Miller, Mayor

Joe Sanchez, Government Fleet
Account Manager

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
SAN TAN AUTO PARTNERS, LLC,
DBA SAN TAN FORD

[State Contract CTR059323]

See following pages.



OFFER AND ACCEPTANCE

OFFER

TO THE STATE OF ARIZONA:

The undersigned hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

San Tan Auto Partners DBA San Tan Ford
 Offeror (Company) Name
 1429 E Motorplex Loop
 Address
 Gilbert AZ 85297
 City State Zip
 joesanchez@santanford.com
 Email Address
 fleetsales@santanford.com
 Company Email Address


 Signature of Person Authorized to Sign Offer
 Joe Sanchez 1/18/2022
 Printed Name Date
 Government Fleet Account Manager
 Title
 480-621-3741
 Phone Number
 480-621-3796
 Fax Number

By signature in the Offer section above, the Offeror certifies that the submission of the Offer did not involve collusion or other anticompetitive practices.

ACCEPTANCE OF OFFER (FOR DEPARTMENT USE ONLY)

The Contractor is now bound to perform based upon Contract Number CTR059323 including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the state.

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this 17th day of March 2022

DocuSigned by:

 Procurement Officer. 3/10/2022
 Awarded Date

Contract Amendment Summary

CONTRACTOR: San Tan Auto Partners LLC	AMENDMENT NO.: One (1)
DESCRIPTION: New Vehicle Purchases	

Pursuant to the Uniform Terms and Conditions, Section 5, Contract Changes, the above referenced contract is amended. Summary of changes is as follows:

1. Amendment One (1) to mutually extend this contract from March 17, 2023 through March 16, 2024, unless terminated, canceled or extended as otherwise provided in the contract.
2. All other terms, conditions and provisions of this contract remain unchanged.

Contract Amendment Summary

CONTRACTOR: San Tan Auto Partners	AMENDMENT NO.: Two (2)
DESCRIPTION: CTR059323 - New Vehicles Purchases	

Pursuant to the Uniform Terms and Conditions, Section 5, Contract Changes, the above referenced contract is amended. Summary of changes is as follows:

1. Amendment Two (2) to mutually extend this contract from March 17, 2024 through March 16, 2025 unless terminated, canceled or extended as otherwise provided in the contract.
2. The executed SPO205 Forced Labor of Ethnic Uyghurs Ban form is hereby included with this amendment.
3. All other terms, conditions and provisions of this contract remain unchanged.

Forced Labor of Ethnic Uyghurs Ban

Please note that if any of the following apply to the Contractor, then the Offeror shall select the "Exempt Contractor" option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. § 35-394, the State of Arizona prohibits a public entity from entering into or renewing a contract with a company unless the contract includes written certification that the company does not use the forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Under A.R.S. §35-394:

1. "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.
2. "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.

In compliance with A.R.S. §§ 35-394 et seq., all offerors must select **one** of the following:

☒	The Company submitting this Offer does not use, and agrees not to use during the term of the contract, any of the following: • Forced labor of ethnic Uyghurs in the People's Republic of China; • Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; 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.
☐	The Company submitting this Offer does participate in use of Forced Uyghurs Labor as described in A.R.S. § 35-394.
☐	Exempt Contractor. Indicate which of the following statements applies to this Contractor (may be more than one): ☐ Contractor is a sole proprietorship; ☐ Contractor has fewer than ten (10) employees; and/or ☐ Contractor is a non-profit organization.

San Tan Ford

Company Name

1429 E Motorplex Loop

Address

Gilbert

AZ

85142

City

State

Zip



Signature of Person Authorized to Sign

Joe Sanchez

Printed Name

Government Fleet Director

Title

October 30, 2023

Date

REQUEST FOR PROPOSAL

SOLICITATION NUMBER: BPM004157

DESCRIPTION: New Vehicle Purchases

QUESTIONS: Inquiries regarding the solicitation are to be submitted online through the State's e-Procurement system, Arizona Procurement Portal (APP) (<https://app.az.gov/>) using the Discussion Forum tab.

OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.

Thomas Kornell
Procurement Officer
Phone: 602-712-8520
Email: Tkornell@azdot.gov

This solicitation is issued in accordance with A.R.S. §41-2534 and A.A.C. R2-7-C301 et seq., Competitive Sealed Proposals.

"An Equal Opportunity Agency"

The Arizona Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Americans with Disabilities Act (ADA), hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration for an award.

Persons that require a reasonable accommodation based on language or disability should contact ADOT's Procurement Office by phone (602) 712-2089. Requests should be made as early as possible to ensure the State has an opportunity to address the accommodation.

Las personas que requieran asistencia (dentro de lo razonable) ya sea por el idioma o discapacidad deben ponerse en contacto con ADOT (602) 712-2089.

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1. Statement of Need

- 1.1. Pursuant to the Arizona Procurement Code, A.R.S. §41-2501 et seq., the State of Arizona Department of Transportation (Department), has a requirement for New Vehicle Purchase.

2. Introduction and Background

- 2.1 The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures.
- 2.2 Background: The State and its Eligible Agencies currently spend an estimated twenty-one million dollars in the purchase of new vehicles annually.
- 2.3 The following are the Three Categories covered in this Scope of Work:
- **Category One: Phase One (1) Vehicle Purchases**
 - **Category Two: Phase Two (2) Vehicle Purchases**
 - **Category Three: FTA Funded Vehicles**

3 General Requirements

- 3.1 Vehicles shall be new and supplied with all equipment and accessories indicated as standard equipment in the manufacturer's published literature (or website). Optional equipment necessary to meet the minimum requirements shall be included.
- 3.2 All vehicles ordered through Phase 1 (off the line) shall be Manufacturer's current year models in production throughout the term of this contract and shall be serviced completely by the vendor before delivery and ready in all respects for use. For the initial contract period; vehicles shall be new model year 2022 or greater.
- 3.3 Vehicles ordered through Phase 2 (on the lot) shall have less than 100 original odometer miles and be new (have never been previously owned) unless pre-approved in writing by the Eligible Agency.
- 3.4 All vehicles shall meet requirements of applicable Arizona Motor Vehicle laws and all other applicable Federal Motor Vehicle Safety Standards (including the Federal Bridge Formula), whether or not such requirements are specified in detail.
- 3.5 For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation.

SCOPE OF WORK

- 3.6 Delivery location shall be identified on the issuing agency purchase order. Deliveries shall be made within 120 days of receipt of purchase orders, unless factory delays make this impossible. Dealer shall notify the ordering agency of such delays along with a revised delivery estimate from the factory immediately after it becomes known. If the manufacturer has a website available to check order status, this information will be shown in space provided on Offer Response Form.
- 3.7 All deliveries shall be made Monday through Friday from 8:00 A.M. to 2:00 P.M. The Contractor shall be required to give the using agency a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and number of units to be delivered.
- 3.8 All vehicles shall be delivered with four (4) entrance tools and a full tank(s) of fuel, less delivery fuel.
- 3.9 The following documents shall be provided upon delivery of the vehicle(s):
 - 3.9.1 M.S.O. (Manufacturer Statement of Origin) that includes the odometer statement
 - 3.9.2 Warranty Document
 - 3.9.3 Manufacturers unaltered invoice
 - 3.9.4 Delayed warranty / in service start request form (if requested by ordering entity)
 - 3.9.5 Level 1 Inspection if applicable, completed before delivery
- 3.10 For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract.

4 Specific Requirements

- 4.1 The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency.
- 4.2 As new model year vehicles become available, vendor shall submit pricing at either the same rate as the previous model, or submit a request for an increase or decrease based only on the manufacturer's increase or decrease. Documentation must be submitted to the Procurement Officer within 30 days of the effective date of change. New model year vehicles cannot be offered without approval from the Procurement Officer.
- 4.3 The following fuel types are allowable under this contract are to include but are not limited too.
 - 4.3.1 Flexible Fuel Vehicles (FFV) also called Ethanol or E85
 - 4.3.2 Diesel

4.3.3 Gasoline

4.3.4 Compressed Natural Gas (CNG): CNG systems must be O.E.M. or O.E.M. approved

4.3.5 Hybrid-Electric Vehicles (HEV)

4.3.6 Plug-in Hybrid Electric Vehicles (PHEV)

4.3.7 Electric Vehicles (EV) also called Battery Electric Vehicles (BEV)

4.3.8 Fuel Cell Vehicles (FCV)

4.4 Vehicle Up-fit / Modifications

4.4.1 The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency.

4.4.2 The Eligible Agency will supply all up-fit/modification requests to the Contractor. The Contractor shall identify any conditions that apply to the up-fit/modification on a quotation to the Eligible Agency for review before any work commences.

4.5 Minimum Vehicle Requirements: All prices shall include the following equipment:

4.5.1 All standard factory equipment

4.5.2 Automatic transmission [maximum towing/payload capacity shall be provided upon request]

4.5.3 Bluetooth capabilities

4.5.4 AM/FM radio

4.5.5 Cruise Control

4.5.6 Power Door Locks/Power Windows

4.5.7 Power Mirrors when available

4.5.8 Four (4) entrance tools (in any combination allowed; keyless entry remotes, integrated or smart keys, standard cut keys) per vehicle.

a. Type of keys to be provided shall be indicated on quote.

4.5.9 Air conditioning

a. Rear air conditioning on all vehicles, when available

4.5.10 Cloth seats

4.5.11 Rear view mirrors including on driver and passenger doors

a. FOR TRUCKS: Rear view mirrors on driver front and passenger front doors, largest available without upgrading vehicle options package.

b. Back up Camera

4.5.12 Spare tire

a. Full size standard steel wheel with matching Original Equipment Manufacturer spare tire identical to standard equipment with the trim level of the delivered vehicle.

b. If full spare is not available due to space or manufacturer standards, an alternative shall be provided and noted on quote provided.

4.5.13 Floor Mats

a. O.E.M. floor mat sets installed in all seating rows where the vehicle comes with carpeted floors.

b. Fixed driver floor mat

4.5.14 Arizona legal tinted glass

4.5.15 Minimum of 2 USB charging Ports

4.6 Specific Requirements for Trucks (when available)

4.6.1 Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW.

4.6.2 Skid plate package and anti-slip differential for four-wheel drive vehicles

4.6.3 Front tow hooks

5 Contractor's Responsibilities

Contractor shall be responsible for processing the registration, licensing, title and plating of all new vehicles ordered only if requested by the Eligible Agency.

6 Department's Responsibilities

The Eligible Agencies will provide final acceptance and approval of any equipment and services delivered

1. CONTRACT TERM

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

2. CONTRACT EXTENSION

By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months.

3. ELIGIBLE AGENCIES

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

4. NON-EXCLUSIVE CONTRACT

This contract shall be for the sole convenience of the Department. The Department reserves the right to obtain like goods or services from another source when necessary. The Off-Contract Purchase Authorization and subsequent procurement shall be consistent with the Arizona Procurement Code.

5. ORDERING PROCESS

The Department shall issue a purchase order to the Contractor. Each purchase order must cite the contract number. This purchase order shall be the only document required for the Department to order and the Contractor to deliver the material and/or service.

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

6. SHIPPING TERMS

Delivery shall be F.O.B. Destination to the location designated herein. Contractor shall retain title and control of all goods until they are delivered. All risk of transportation and related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The Department will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection.

7. DELIVERY

Contract prices shown for each vehicle include delivery cost within a sixty (60) mile radius of Phoenix. For the purpose of this contract, the address used for mapping the radius within Phoenix will be as follows:

Equipment services shop/ADOT
2225 S 22nd Ave, Phoenix, AZ 85009

Delivery costs for each county outside of the Phoenix area shall be indicated on Offer Response form.

This will be an added cost to the contract price.

Deliveries shall be completed in accordance with the requirements of the contract.

Delivery of the product does not constitute acceptance.

8. INSPECTION AND ACCEPTANCE

Each item delivered shall be subject to a complete inspection by the Department within 10 days after delivery. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.

If the delivered product is not accepted and returned for corrective action, an additional fifteen (15) calendar days shall be allowed for inspection of the corrected or replacement product.

The Contractor shall be responsible for the transport of the material to and from the Department for the correction of items or workmanship not in compliance with the specifications.

Product returned for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted.

9. INVOICING and PAYMENT

Contractor shall submit all billing notices or invoices to the Eligible Agency or Co-Op Buyer at the address Indicated on the applicable Order document.

Separate invoices are required for each shipment of product or delivery of service and shall include at a minimum:

- Department Location's Name and Address
- Vendor Name, Remit to Address and Contact Information
- Contract Number
- Purchase Order Number
- Invoice Number and Date
- Date the items were shipped to the Department
- Applicable payment terms
- Contract Line Item Number
- Line Item Description or Item or Service
- Quantity Purchased

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- Line Item Unit of Measure
- Price per Unit and Total per Unit
- Catalog or Other Discount (if applicable)
- Net Unit Price and Total per Unit (if applicable)
- Applicable taxes (as a separate invoice line item)
- Applicable Shipping/Freight Charges etc. (as a separate invoice line item) Materials only.
- Total Invoice Amount Due

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the Department or the State for late or finance charges.

The Department will make every effort to process payment for the purchase of product within thirty (30) calendar days after the Department has conducted the necessary reviews, inspections and acceptance as described herein.

The department acceptance date will be the valid date for starting the thirty (30) calendar day payment period.

Payment due dates, including discount periods, will be computed from the date of acceptance or date of correct invoice (whichever is later) to the date the Department's warrant is mailed.

10. ESTIMATED USAGE

The Department anticipates considerable usage under this contract. The Department reserves the right to increase or decrease actual quantities ordered as circumstances may require. No guarantees are made concerning actual purchases under this contract.

11. PRICING

- 1 Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.
 - a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.
 - b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
 - c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
 - d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
 - e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.
 - f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.

- g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order.

2 CONTRACTOR'S BEST PRICING: Supplier warrants that, for the term of the Contract, the prices and discounts set out in the Pricing Documents, 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 items of equipment and materials.

2.1 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.

2.2 If Contractor's Best Pricing for equivalent 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.

2.3 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 Supplier agrees to charge at less than the Contract Pricing until the extended 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.

3 PRICING-ALL-INCLUSIVE: 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.

4 LARGE VOLUME DISCOUNT PRICING: An Eligible Agency may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible Agency for large volume purchases.

5 A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice through a written contract amendment.

12. PRICE INCREASE

The Department will review **fully documented** requests for price increases for any contract which will or has been in effect for twelve (12) months. The request shall be submitted no less than 60 days prior to the contract renewal date. The Contractor shall provide fully documented information which supports the price increase request. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be

clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment request prior to the time of contract extension will be a factor in the extension review process. The Department will determine whether the requested price increase or an alternate option, is in the best interest of the State. All pricing should reflect the minimum percentage of MSRP.

13. SAFETY STANDARDS

Items supplied under this contract shall comply with all current applicable safety standards and regulations including the Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards.

14. WARRANTY

The Contractor warrants:

1. That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.
2. At a minimum all equipment supplied under these specifications shall be fully warranted by the vehicle manufacturer against mechanical and electrical defects for a minimum period of thirty-six (36) months from the date vehicle is placed in service.
3. This warranty shall cover such items as actual repair labor, parts, and shipping charges to and from the nearest service facility or other designated repair depot.
4. Any defects of design, workmanship or material, shall be fully corrected by the vendor without cost to the state agency or political subdivision.
5. The written warranty shall be included with the delivered vehicles to the Eligible Agency. The warranty terms shall be stated on Attachment 3-A, where indicated. Failure to provide this general information may result in the offer being rejected.
6. Hybrid / Electric Vehicle Warranty: Hybrid-related components including catalytic convertor, electronic control unit, onboard emissions diagnostic device, high voltage battery, transmission, DC/DC convertor for hybrid vehicles shall be covered for 8 years/100,000 miles, battery for electric vehicles shall be 8/years/100,000 miles and bidder shall indicate limitation of warranty due to voltage and amps. The warranty terms shall be stated where indicated on Attachment 3-A. Failure to provide this general information may result in the bid being rejected.

15. CURRENT PRODUCTS

All products supplied under this contract shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in the contract.

16. PRODUCT DISCONTINUANCE

In the event that a product or model is discontinued by the manufacturer, the Department at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request authorization to substitute a new product or model and provide the following:

1. A formal announcement from the manufacturer that the product or model has been discontinued.
2. Documentation from the manufacturer that names the replacement product or model.
3. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation.
4. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.
5. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.

17. CONTRACT ADMINISTRATION

The Contractor shall contact the assigned Procurement Officer for guidance or direction in matters of contract interpretation or questions regarding the terms, conditions or scope of the contract.

18. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called "Notices"), shall be in writing and shall be sent by certified United States mail, return receipt requested, or by any other method that provides evidence of receipt, addressed to the party or parties to receive such notice as follows:

A. If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1739 W. Jackson Street, MD 100P
Phoenix, Arizona 85007-3276

B. If intended for the Contractor, to the address as identified in the Contractor's electronic vendor profile. Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Transportation, Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

19. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

This contract may be cancelled if Contractor or any subcontractors or others in the employ or under the supervision of the Contractor or subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property.

Further, if the Contractor or any subcontractors or others in the employ or under the supervision of the Contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. § 13-1502, "Criminal trespass in the third degree; classification."

20. INDEMNIFICATION CLAUSE

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 "Indemnatee") 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 Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

21. INSURANCE REQUIREMENTS

21.1 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.

21.2 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.

21.3 Minimum Scope and Limits of Insurance Contractor shall provide coverage with limits of liability not less than those stated below.

21.3.1 Commercial General Liability (CGL) – Occurrence Form

The Contractor shall furnish Certificate(s) of Insurance inclusive of the following requirements to the Department. Certificate(s) shall be received within 10 calendar days of notification of contract award by the Procurement Officer.

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

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, 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.

21.3.2 Business Automobile Liability

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

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

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving

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automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement 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.

21.3.3 Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability
 - o Each Accident \$1,000,000
 - o Disease – Each Employee \$1,000,000
 - o Disease – Policy Limit \$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, 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 each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

21.4 Additional Insurance Requirements The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

21.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary 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).

21.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

21.5 Notice of Cancellation Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

21.6 Acceptability of Insurers Contractor's 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.

21.7 Verification of Coverage Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

21.7.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

21.7.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

21.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

21.8 Subcontractors Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

21.9 Approval and Modifications the Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

21.10 Exceptions In the event the Contractor or subcontractor(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 subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

22. USAGE REPORT

The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. 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>

23. CONTRACT ORDER OF PRECEDENCE

In the event of a conflict in the provisions of the Contract, as accepted by the Department and as they may be amended, the following shall prevail in the order set forth below:

- Federal Provisions
- Special Terms and Conditions
- Uniform Terms and Conditions
- Statement or Scope of Work
- Specifications
- Attachments
- Exhibits
- Special Instructions to Offerors
- Uniform Instructions to Offerors
- Other documents referenced or included in the Solicitation

24. LICENSES, PERMITS, CERTIFICATIONS

Contractor, at their expense, shall maintain in current status without any violations, complaints, or suspensions during the term of this contract all Federal, State and Local licenses, permits and certifications required for the operation of a business conducted by the Contractor.

25. CO-OP USAGE

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/contractor-resources/statewide-contracts-administrative-fee>

Contractor shall sell to Co-Op Buyers at the same price, and with the same lead times and other terms and conditions under which it sells to Eligible Agencies. With the sole exception of any legitimate 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).

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.

26. POST AWARD MEETING

At the discretion of the Department, the Contractor, at their expense, shall attend and participate in post award meetings as scheduled by the Procurement Officer.

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. *"Contractor"* means any person who has a Contract with the State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona

Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
- Federal Provisions
 - Special Terms and Conditions
 - Uniform Terms and Conditions
 - Statement or Scope of Work
 - Specifications
 - Attachments
 - Exhibits
 - Special Instructions to Offerors
 - Uniform Instructions to Offerors
 - Other documents referenced or included in the Solicitation
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

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- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the

State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11 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.

4. Costs and Payments

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Applicable Taxes.
- 4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if

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applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

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

6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

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- 6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- 6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

- 7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
- 7.2.1. Of a quality to pass without objection in the trade under the Contract description;
- 7.2.2. Fit for the intended purposes for which the materials are used;
- 7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4. Adequately contained, packaged and marked as the Contract may require; and
- 7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance With Applicable Laws. The materials and services supplied under this

Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the

materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The

Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The following provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220 available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance> are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

The Federal Terms and Conditions under this Contract shall be incorporated in any sub-contractor, or lower-tier agreement for any federally-funded task assignment / project awarded under this Contract.

2. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Department and Contractor acknowledge and agree that, notwithstanding any concurrence b the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Department, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by Federal Funding Agency. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project.

Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) (5323(l)) on the Contractor, to the extent the Federal Government deems appropriate.

Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor shall - provide the Purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also , pursuant to 49 C. F. R. 633.15, provide authorized FTA representative including any PMO Contractor access to Contractor's records and construction sites pertaining to a capital project, defined at 49 U.S.C. 5302(a)1, which is receiving assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.15, Contractor shall provide the Purchaser, authorized FTA representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which receives FTA assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.00.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non- profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor shall provide the Purchaser, FTA, the US Comptroller General or their authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor shall retain, and shall require its subcontractors at all tiers, all books, records, accounts and reports required under this contract for a period of not less than five years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

5. TERMS OF THE MASTER AGREEMENT AND COMPLIANCE

Contractor shall at all times comply with all applicable Federal Funding Agency laws, regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, available at <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>, between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. This Master Agreement does not have an Expiration Date. This Master Agreement continues to apply to the Recipient and its Underlying Agreement, until modified or superseded by a more recently enacted or issued applicable federal law, regulation, requirement, or guidance, or amendment to this Master Agreement or the Underlying Agreement. To assure compliance the Recipient must take measures to assure that other participants in its Underlying Agreements (e.g., Third Party Participants) comply. Contractor's failure to so comply shall constitute a material breach of this contract.

All contractual provisions required by the U.S. Department of Transportation are hereby incorporated by reference. In the event of additional funding provided by FHWA, the applicable requirements of the Stewardship Agreement, available at <https://www.fhwa.dot.gov/federalaid/stewardship>, between the Department and FHWA are incorporated by reference.

6. CIVIL RIGHTS REQUIREMENTS

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply

with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

Equal Employment Opportunity

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex(including sexual orientation and gender identity), age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements Federal Funding Agency may issue.
2. Race, Color, religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.
3. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

4. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided, modified only if necessary to identify the affected parties.

7. TERMINATION

Termination of the contract shall be in accordance with the Uniform Terms and Conditions, Section 9., paragraph 9.1 through 9.6.

8. DEBARMENT OR SUSPENSION

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Department, the

Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

8.1 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

The Contractor agrees to the following:

- (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:
 - (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,
 - (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and
 - (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:
 - (1) Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and

If the Department suspends, debars, or takes any similar action against a Third Party Participant or individual, the Department will provide immediate written notice to the:

- (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project,
- (b) FTA Project Manager if the Project is

- administered by an FTA Headquarters Office,
or
(c) FTA Chief Counsel.

9. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER

POLLUTION CONTROL ACT Clean Water

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

Clean Air

- 1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- 2) Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

10. BUY AMERICA

In any task assignment / project for construction, acquisition of goods, or rolling stock valued at more than \$150,000, the contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 65% domestic content for FY2019 and a minimum 70% domestic content for FY2020 and beyond. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed a certification shall be rejected as

nonresponsive. This requirement does not apply to lower tier subcontractors.

11. BREACHES AND DISPUTE RESOLUTION

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the Department. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the Department. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Department shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Department and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Department or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

12. LOBBYING

The Contractor agrees to comply with the provisions of Title 31, U.S. C 1352 as

amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. 1601, et seq.] and (Public Law 101.121) as codified in Title 48, Federal Acquisition Regulations Subpart 3.8 and Subpart 52.203-11. The legislation prohibits Federal funds from being expended by a recipient or any lower tier sub- recipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the award of any Federal contract, the making of any Federal grant or loan, or entering into any cooperative agreement, including the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. All disclosure statements are to be furnished to the Department.

Contractors who apply or propose/bid for an award of \$100,000 or more in value shall file the attached Lobbying Certification {01Lobbying Certification document} required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government- financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

14. ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

15. CONFLICTS OF INTEREST / EMPLOYMENT OF FEDERAL PERSONNEL

Contractors will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the Department or the Federal funding agency shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: The employee, officer or agent, any member of his immediate family, His or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. Department officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

16. COPYRIGHT AND PATENT

To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless ADOT against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of this contract performance or use by ADOT of materials furnished or work performed under this contract. ADOT shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

Copyrights pursuant to 23 CFR 420.121 (b): The Department, as a State DOT may copyright any books, publications, or other copyrightable materials developed in the course of the project, and does herein exercise that right. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

Patents pursuant to 23 CFR 420.121 (i): The Department, as a State DOT is subject to the provisions of 37 CFR part 401 governing patents and inventions and must include or cite the standard patent rights clause at 37 CFR 401.14, except for §401.14(g), in all subgrants or contracts. In addition, State DOTs must include the following clause, suitably modified to identify the parties, in all subgrants or contracts, regardless of tier, for experimental, developmental or research work: "The subgrantee or contractor will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subgrant or contract, obtain rights in the subgrantee's or contractor's subject inventions."

Standard Patent Rights required pursuant to 37 CFR 401.14:

(a) Definitions

(1) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C.

2321 et seq.).

(2) Subject invention means any invention of the contractor conceived or first actually reduced to practice in the performance of work under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(3) Practical Application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) Small Business Firm means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) Nonprofit Organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(7) The term statutory period means the one-year period before the effective filing date of a claimed invention during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

(8) The term contractor means any person, small business firm or nonprofit organization, or, as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

(b) Allocation of Principal Rights

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention

throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Contractor

(1) The contractor will disclose each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor.

(2) The contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. If the contractor files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. The contractor will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) For any subject invention with Federal agency and contractor co-inventors, where the Federal agency employing such co-inventor determines that it would be in the interest of the government, pursuant to 35 U.S.C. 207(a)(3), to file an initial patent application on the subject invention, the Federal agency employing such co-inventor, at its discretion and in consultation with the contractor, may file such application at its own expense, provided that the contractor retains the ability to elect title pursuant to 35 U.S.C. 202(a).

(5) Requests for extension of the time for disclosure, election, and filing under

paragraphs (1), (2), and (3) of this clause may, at the discretion of the Federal agency, be granted. When a contractor has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the Federal agency notifies the contractor within 60 days of receiving the request.

(d) Conditions When the Government May Obtain Title

The contractor will convey to the Federal agency, upon written request, title to any subject invention—

(1) If the contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(2) In those countries in which the contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the contractor shall continue to retain title in that country.

(3) In any country in which the contractor decides not to continue the prosecution of any non-provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Contractor and Protection of the Contractor Right to File

(1) The contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the contractor fails to disclose the invention within the times specified in (c), above. The contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the contractor is a party and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the successor of that party of the contractor's business to which the invention pertains.

(2) The contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the contractor, its licensees, or the domestic

subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Contractor Action to Protect the Government's Interest

(1) The contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph (c) of this clause, to assign to the contractor the entire right, title and interest in and to each subject invention made under contract, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) For each subject invention, the contractor will, no less than 60 days prior to the expiration of the statutory deadline, notify the Federal agency of any decision: Not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a

post-issuance submission, and supplemental examination.

(4) The contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the contract) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts

(1) The contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a subcontractor.. The subcontractor will retain all rights provided for the contractor in this clause, and the contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the agency may reasonably specify. The contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the contractor.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the contractor agrees that neither

it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

- (1) Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Contracts with Nonprofit Organizations

If the contractor is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the contractor;

(2) The contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the contractor agrees that the Federal agency may review the contractor's licensing program and decisions regarding small business applicants, and the contractor will negotiate changes to its licensing policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the contractor could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4). In accordance with 37 CFR 401.7, the Federal agency or the contractor may request that the Secretary review the contractor's licensing program and decisions regarding small business applicants.

17. RECOVERED MATERIALS

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

18. SAFE OPERATION OF MOTOR VEHICLES

a. Seat Belt Use. The Recipient agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

(1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles, and

- (2) Including a “Seat Belt Use” provision in each third party agreement related to the Award.

b. Distracted Driving, Including Text Messaging While Driving. The Recipient agrees to comply with:

- (1) Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225),
- (2) U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009, and
- (3) The following U.S. DOT Special Provision pertaining to Distracted Driving:
 - (a) Safety. The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award,
 - (b) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving, and
 - (c) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34.b(3)(a) – (b) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

19. CERTIFICATION AND ASSURANCES

The FTA Certifications and Assurances are incorporated herein by reference. Upon award or contract renewal, the Contractor must agree to comply with the most current FTA Certifications and Assurances by signing and submitting the signature page provided by the Department. In the event FTA issues new Certifications and Assurances, the Department reserves the right to require submission of a new signature page agreeing to comply; to be added to the terms and conditions by Amendment. All such requests are a condition of continued award.

20. DISADVANTAGED BUSINESS ENTERPRISES

1.0 Policy:

The Arizona Department of Transportation (hereinafter the Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Department has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Department to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Department:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program; and
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.

It is also the policy of the Department to facilitate and encourage participation of Small Business Concerns (SBCs), as defined herein, in USDOT-assisted contracts. The Department encourages contractors to take reasonable steps to eliminate obstacles to SBCs' participation and to utilize SBCs in performing contracts.

2.0 Assurances of Non-Discrimination:

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Department deems appropriate, which may include, but are not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;

3. Liquidated damages;
4. Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding; and/or
5. Cancellation, termination, or suspension of the Contract, in whole or in part.

The contractor, subrecipient, or subcontractor shall ensure that all subcontract agreements contain this non-discrimination assurance.

3.0 Definitions:

(A) Commercially Useful Function (CUF): Commercially Useful Function is defined fully in 49 CFR 26.55, which definition is incorporated herein by reference.

(B) Disadvantaged Business Enterprise (DBE): a for-profit small business concern which meets both of the following requirements:

- (1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(C) NAICS Code: The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

(D) Non-DBE: any firm that is not a DBE.

(E) Race-Conscious (RC): a measure or program focused specifically on assisting only DBEs, including women-owned DBEs.

(F) Race-Neutral (RN): a measure or program used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

(G) Small Business Concern (SBC): a business that meets all of the following conditions:

- (1) Operates as a for-profit business registered to do business in Arizona;
- (2) Operates a place of business primarily within the U.S., or makes a significant contribution to the U.S. economy through payment of taxes

or use of American products, materials, or labor;

- (3) Is independently owned and operated;
- (4) Is not dominant in its field on a national basis; and
- (5) Does not have annual gross receipts that exceed the Small Business Administration size standards average annual income criteria for its primary North American Industry Classification System (NAICS) code.

(H) Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are enrolled members of federally or State recognized Indian tribe, Alaskan Natives or Native Hawaiians;
 - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - (vi) "Women;"
 - (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business

Administration (SBA), at such time as the SBA designation becomes effective.

4.0 Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction. All proposers should contact the Department's Business Engagement and Compliance Office (BECO) by phone, through email, or at the address shown below, for assistance in their efforts to use DBEs in the highway construction industry. BECO contact information is as follows:

Arizona Department of
Transportation Business
Engagement and Compliance
Office 1801 W. Jefferson St.,
Ste. 101, Mail Drop 154A
Phoenix, AZ 85007
Phone (602) 712-7761
FAX (602) 712-8429
Email: contractorcompliance@azdot.gov Website: www.azdot.gov/bec

4.01 Mentor-Protégé Program:

The Department has established a Mentor- Protégé program as an initiative to encourage and develop disadvantaged businesses in the highway construction industry. The program encourages prime contractors to provide certain types of assistance to certified DBE subcontractors. ADOT encourages contractors and certified DBE subcontractors to engage in a Mentor-Protégé agreement under certain conditions. Such an agreement must be mutually beneficial to both parties and to ADOT in fulfilling requirements of 49 CFR Part 23. For guidance regarding this program refer to the Mentor-Protégé Program Guidelines available on the BECO website.

The Mentor-Protégé program is intended to increase legitimate DBE activities. The program does not diminish the DBE rules or regulations, and participants may not circumvent these rules.

5.0 Applicability:

The Department has established an overall annual goal for DBE participation on Federal aid contracts. The Department intends for the goal to be met with a combination of race conscious efforts and race neutral efforts. Race conscious participation occurs when the contractor uses a percentage of DBEs, as defined herein, to meet the contract specified goal. Race neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race neutral as when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract

on a prime contract that does not carry a DBE contract goal.

Prime contractors are encouraged to obtain DBE participation even if a DBE goal was not established on a contract.

The DBE provisions are applicable to all contractors including DBE contractors.

6.0 Certification and Registration:

6.1 DBE Certification:

Certification as a DBE shall be predicated on:

- (1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".
- (2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.
- (3) The submission of any additional information which the Department or the applicable Arizona Unified Certification (UCP) agency may require to determine the firm's eligibility to participate in the DBE program.
- (4) The information obtained during the on-site visits to the offices of the firm and to active job-sites.

Applications for certification may be filed online with the Department or the applicable UCP agency at any time through the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) website at <http://www.azutracs.com>.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

ADOT is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at <http://www.azutracs.com/>. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification of a DBE is not a representation of qualifications and/or abilities nor does it mean that a DBE firm is guaranteed or entitled to receive or be awarded a contract. Being certified simply means that a firm has met the criteria for

DBE certification as outlined in 49 CFR Part 26. The contractor bears all risks of ensuring that DBE firms selected by the contractor are able to perform the work.

6.2 SBC Registration:

To comply with 49 CFR Part 26.39, ADOT's DBE Program incorporates contracting requirements to facilitate participation by Small Business Concerns (SBCs) in federally assisted contracts. SBCs are for-profit businesses authorized to do businesses in Arizona that meet the Small Business Administration (SBA) size standards for average annual revenue criteria for its primary North American Industry Classification System (NAICS) code.

While the SBC component of the DBE program does not require utilization of goals on projects, ADOT strongly encourages contractors to utilize small businesses that are registered in AZ UTRACS on their contracts, in addition to DBEs meeting the certification requirement. The contractor may use the AZ UTRACS website to search for certified DBEs and registered SBCs that can be used on the contract. However, SBCs that are not DBEs will not be counted toward DBE participation.

SBCs can register online at the AZ UTRACS website.

The Department's registration of SBCs is not a representation of qualifications and/or abilities nor does it mean that an SBC firm is guaranteed or entitled to receive or be awarded a contract. Being SBC registered simply means that a firm has met the criteria for SBC registration as outlined in 49 CFR Part 26. The contractor bears all risks of ensuring that SBC firms selected by the contractor are able to perform the work.

7.0 DBE Financial Institutions:

The Department thoroughly investigates the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its service area and makes reasonable efforts to use these institutions. The Department encourages prime contractors to use such institutions on USDOT assisted contracts. However, use of DBE financial institutions will not be counted toward DBE participation.

The Department encourages prime contractors to research the Federal Reserve Board website at www.federalreserve.gov to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center database.

8.0 Time is of the Essence:

TIME IS OF THE ESSENCE IN RESPECT TO THE DBE PROVISIONS.

9.0 Computation of Time:

In computing any period of time described in this DBE special provision, such as calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal or State holiday. In circumstances where the Department's offices are closed for all or part of the last day, the period extends to the next day on which the Department's offices are open.

10.0 Contractor and Subcontractor Requirements:

10.1 General:

Each contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

10.2 DBE Liaison:

The contractor shall designate a DBE Liaison responsible for the administration of the contractor's DBE program. The name of the designated DBE Liaison shall be included in the DBE Intended Participation Affidavit Summary.

11.0 DBE Goals

The Department has not established contract goals for DBE participation in this contract.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The contractor is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

11.1 Race Neutral Contract (With No DBE Goal)

The Department has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. ADOT has received federal financial assistance from the USDOT and as a condition of receiving this assistance, ADOT has signed an assurance that it shall comply with 49 CFR Part 26.

It is ADOT's policy to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in federally-funded contracts.

NO CONTRACT DBE GOAL HAS BEEN ESTABLISHED FOR DBE PARTICIPATION ON THIS CONTRACT.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The consultant is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

12.0 Bidders/Proposers List and AZ UTRACS Registration Requirement:

Under Title 49 CFR of the Code of Federal Regulations, Part 26.11, DOTs are required to collect certain information from all contractors and subcontractors who seek to work on federally-assisted contracts in order to set overall and contract DBE goals. ADOT collects this information when firms register their companies on the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) web portal at <http://www.azutracs.com/> a centralized database for companies that seek to do business with ADOT. This information will be maintained as confidential to the extent allowed by federal and state law.

Prime contractors and all subcontractors, including DBEs listed in the offer must be registered in AZUTRACS. Proposers may verify that their firm and each subcontractor is registered using the AZUTRACS website.

Proposers may obtain additional information at the AZ UTRACS website or by contacting BECO.

All proposers shall create a Bidders/Proposers list in the AZ UTRACS by selecting all firms, service providers, and vendors that expressed interest or submitted proposals or quotes for this contract. The Bidders/Proposers List form must be complete and must include the names for all subcontractors, service providers, and vendors that submitted proposals or quotes on this project regardless of the proposer's intentions to use the those firms on the project.

All proposers must complete and submit the Bidders/Proposers List online at AZ UTRACS prior to Offer submittal. A confirmation email will be generated by the system. This email confirmation shall be submitted with the Offer.

13.0 Payment Reporting:

The contractor shall report on a monthly basis indicating the amounts paid to all subcontractors, of all tiers, working on the project. Reporting shall be in accordance with below.

Subcontracts:

- a. Sub-Contract Terms:

1. The Contractor agrees to execute a written Contract with all Subcontractors for work to be completed under this Contract. The executed Contract shall include Subcontractor's Scope of Work and all the Uniform Terms and Conditions set forth in this Contract.
2. The Contractor shall provide electronic copies of signed subcontract agreements with all Subcontractors to ADOT Business Engagement and Compliance Office (BECO) by uploading them to the BECO's online DBE Contract & Labor Compliance Management System (**DBE System**) at <https://adot.dbesystem.com>. Subcontract agreements shall include all required assurances and required clauses as outlined in this Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.
3. The Contractor may be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department.

b. Sub-Contract Payments

1. Retention: If the prime contract does not provide for retention, the contractor and each subcontractor of any tier shall not withhold retention on any subcontract. If the prime contract provides for retention, the prime contractor and each subcontractor of any tier shall not retain a higher percentage than the Department may retain under the prime contract. Retainage shall be paid to the subcontractor within 7 days of satisfactory completion of the work performed by the subcontractor.
2. No Set-offs Arising from Other Contracts: If a subcontractor is performing work on multiple contracts for the same contractor or subcontractor of any tier, the contractor or subcontractor of any tier shall not withhold or reduce payment from its subcontractors on the contract because of disputes or claims on another contract.
3. Partial Payment: The contractor and each subcontractor of any tier shall make prompt partial payments to its subcontractors within seven days of receipt of payment from the Department. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.
4. Final Payment: The contractor and each subcontractor of any tier shall make prompt final payment to each of its subcontractors. The contractor and each subcontractor of any tier shall pay all monies, including retention, due to its subcontractor within seven days of receipt of payment. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.
5. Payment Reporting: For the purposes of this subsection "Reportable Contracts" means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any

tier with a DBE material or service supplier.

The requirements of this subsection apply to all Reportable Contracts.

Payment Reporting for all Reportable Contracts shall be done through the Department's web-based DBE System. The DBE System can be accessed from the Department's BECO website. No later than fifteen calendar days after the Notice to Proceed is issued, the contractor shall log into the Department's web-based DBE System and enter or verify the name, contact information, and subcontract amounts for Reportable Contracts on the project. As Reportable Contracts are approved over the course of the contract, the contractor shall enter them in the system. Reportable contracts shall be entered into the system no later than five calendar days after approval by the Department.

The contractor shall report on a monthly basis indicating the amounts actually paid and the dates of each payment under any Reportable Contract on the project. In addition, the contractor shall require that all participants in any Reportable Contract electronically verify receipt of payment on the contract by the last day of the month and the contractor shall actively monitor the Department's DBE System to ensure that the verifications are input. The contractor shall proactively work to resolve any payment discrepancies in the DBE System between payment amounts it reports and payment confirmation amounts reported by others.

The contractor shall ensure that all Reportable Contract activity is reported to the Department. This includes all lower-tier Reportable Contracts, regardless of whether a DBE is involved or not.

The contractor shall maintain records for each payment explaining the amount requested by the subcontractor, and the amount actually paid pursuant to the request, which may include but are not limited to, estimates, invoices, pay requests, copies of checks or wire transfers, and lien waivers in support of the monthly payments in the DBE System.

The contractor shall provide information for payments made on all Reportable Contracts during the previous month by the 15th day of the current month. In the event that no payments were made during a given month, the contractor shall identify that by entering a dollar value of zero. If the contractor does not pay the full amount of any invoice from a subcontractor, the contractor shall note that and provide the reasons in the comment section of the Monthly Payment Audit of the DBE System.

For each Reportable Contract on which the contractor fails to submit timely payment information the Department will retain \$1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to \$2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages

shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

Payment reporting requirements apply to all contracts, federal and non-federal funded.

The contractor shall ensure that a copy of this Subsection is included in every Reportable Contract of every tier.

(a) Sanctions for Inadequate Reporting:

For each Reportable Contract on which the contractor fails to submit timely and complete payment information the Department will retain \$1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to \$2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

6. Completion of Work: A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted by the Department.
7. Disputes: If disputes arise regarding payment of subcontractors, the contractor shall immediately provide the ADOT Project Manager with a written, verifiable explanation if:
 - The contractor does not pay the full amount of any invoice from a subcontractor within seven days of receipt of a progress payment from the Department, or
 - The monthly estimate does not include all work claimed by a subcontractor to have been performed.

The Department will determine whether the contractor has acted in good faith concerning any such explanations. The Department reserves the right to request and receive documents from the contractor and all subcontractors of any tier, in order to determine whether termination requirements were met. The contractor shall implement and use the dispute resolution process outlined in the subcontract, as described in Uniform Terms and Conditions Paragraph, to resolve payment disputes.

8. Non-Compliance: Failure to make prompt partial payment or prompt final payment including any retention, within the time frames established in this contract, will result in remedies, as the Department deems appropriate, which may include, but are not limited to:
 - Liquidated Damages: These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the

contract.

- (i) The Department will withhold two times the disputed dollar amount not paid to each subcontractor.
 - (ii) If full payment is made within 30 days of the Department's payment to the contractor, the amount withheld by the Department will be released.
 - (iii) If full payment is made after 30 days of the Department's payment to the contractor, the Department will release 75 percent of the funds withheld. The Department will retain 25 percent of the monies withheld as liquidated damages.
- Additional Remedies: If the contractor fails to make prompt payment for three consecutive months, or any four months over the course of one project, or if the contractor fails to make prompt payment on two or more contracts within 24 months, the Department may, in addition, invoke the following remedies:
 - (i) Withhold monthly progress payments until the issue is resolved and full payment has been made to all subcontractors and vendors subject to the requirements outlined under "Liquidated Damages" above,
 - (ii) Terminate the contract for default in accordance with this Contract, and/or
 - (iii) Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding temporarily or permanently, depending on the number and severity of violation.
 - (iv) Reflect the contractor's performance in submitting payment reports and making subcontractor payments utilizing the Department's Vendor Performance Report.

14.0 Crediting DBE Participation:

14.01 General Requirements:

To count toward DBE participation, the DBE firms must be certified at the time of Offer submission in each NAICS code applicable to the kind of work the firm will perform on the contract. NAICS for each DBE can be found on the AZ UTRACS website. General descriptions of all NAICS codes can be found at <http://www.naics.com/search/>.

Credit is given only after the DBE has been paid for the work performed.

The entire amount of a contract that is performed by the DBE's own forces, including the cost of supplies and materials purchased by the DBE for the work on the contract and equipment leased by the DBE will be credited toward DBE participation. Supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate will not be credited toward DBE participation.

The contractor bears the responsibility to determine whether the DBE possesses the

proper contractor's license(s) to perform the work and, if DBE credit is requested, that the DBE subcontractor is certified for the requested type of work.

The Department's certification is not a representation of a DBE's qualifications and/or abilities. The contractor bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime contractor, subcontractor, or as a vendor of materials or supplies. The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

The contractor may credit second-tier subcontracts issued to DBEs by non-DBE subcontractors. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

A prime contractor may credit the entire amount of that portion of a contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE participation.

A prime contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consulting, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

14.02 DBE Prime Contractor:

When a certified DBE firm proposes on a contract/Task Assignment all the work that is performed by the DBE contractor or any other DBE subcontractors and DBE suppliers will count toward DBE participation.

14.03 Effect of Loss of DBE Eligibility:

For On-Call Task Assignment contracts, if a DBE is deemed ineligible (decertified) or suspended by ADOT or one of its UCP Partner Agencies in accordance with 49 CFR 26.87 and 26.88, the DBE may not be count toward DBE participation on a new Task Assignment, but may be considered for the contract/Task Assignment DBE participation if a subcontract or contract modification for the work to be completed on the Task Assignment was executed before the DBE suspension or decertification is effective.

A subcontract or contract modification for work on the task assignment means, any subcontract or agreement for the task assignment, which includes a specific ADOT TRACS/Project Number, defined scope, duration and budget for the work to be completed under the Task Assignment that is duly signed by the contractor/contractor and subcontractor/subcontractor.

When the contractor/contractor intends to use an ineligible DBE firm or ADOT made a commitment to use an ineligible DBE prime contractor/contractor, but a subcontract or Contract Modification for the work to be completed on the Task Assignment has not been executed before a decertification notice is issued to the DBE firm by its certifying agency, the ineligible firm does not count toward DBE participation. When a subcontract or contract modification is executed with the DBE firm for the work to be completed on the Task Assignment before ADOT notified the firm of its ineligibility, the DBE's work on the Task Assignment may continue to be credited toward DBE participation for the firm's work.

14.04 Notifying the Contractor of DBE Certification Status:

Each DBE contract at any tier shall require any DBE subcontractor or supplier that is either decertified or certified during the term of the contract to immediately notify the contractor and all parties to the DBE contract in writing, with the date of decertification or certification. The contractor shall require that this provision be incorporated in any contract of any tier in which a DBE is a participant.

14.05 Commercially Useful Function:

A prime contractor can credit expenditures to a DBE subcontractor only if the DBE performs a Commercially Useful Function (CUF).

A DBE performs a CUF when it is responsible for execution of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself that it uses on the project. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually

performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The Department will determine if the firm is performing a CUF given the type of work involved and normal industry practices.

The Department will notify the contractor, in writing, if it determines that the contractor's DBE subcontractor is not performing a CUF. The contractor will be notified within seven calendar days of the Department's decision.

Decisions on CUF may be appealed to the Chief Procurement Officer (CPO). The appeal must be in writing and personally delivered or sent by certified mail, return receipt requested, to the CPO. The appeal must be received by the CPO no later than seven calendar days after the decision of BECO. BECO's decision remains in place unless and until the CPO reverses or modifies BECO's decision. CPO will promptly consider any appeals under this subsection and notify the contractor of CPO's findings and decisions. Decisions on CUF matters are not administratively appealable to USDOT.

The BECO may conduct project site visits on the contract to confirm that DBEs are performing a CUF. The contractor shall cooperate during the site visits and the BECO's staff will make every effort not to disrupt work on the project.

15.0 Required Provisions for DBE Subcontracts:

All subcontracts of any tier, all supply contracts, and any other contracts in which a DBE is a participant shall include as a physical attachment, DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits.

Contractors executing agreements with subcontractors, DBE or non-DBE, that materially modify federal regulation and state statutes such as, prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such

remedy as the deemed appropriate as outlined in DBE Subsection 2.0 of these DBE provisions.

The Department reserves the right to conduct random reviews of DBE and non-DBE subcontract documentation to ensure compliance with federal requirements.

The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontracts be performed in accordance with 49 CFR Part 26 provisions.

The Contractor shall provide electronic copies of subcontract agreements with all Subcontractors by uploading them within 15 calendar days of an executed contract to the ADOT DBE System. Subcontract agreements shall include all required assurances and clauses as outlined in DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits of the Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.

The Contractor shall be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department

16.0 Certification of Final DBE Payments:

DBE participation on the contract is measured by actual payments made to the DBEs. The contractor shall submit the "Certification of Final DBE Payments" form for each DBE firm working on the contract. This form shall be signed by the contractor and the relevant DBE, and submitted to the Engineer no later than 30 days after the DBE completes its work.

The contractor will not be released from the obligations of the contract until the "Certification of Final DBE Payments" forms are received and deemed acceptable by the Engineer and BECO.

17.0 False, Fraudulent, or Dishonest Conduct:

In addition to any other remedies or actions, the Department will bring to the attention of the US Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take steps such as referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General for possible initiation of suspension and debarment proceedings against the offending parties or application of "Program Fraud and Civil Penalties" rules provided in 49 CFR Part 31.

21. NONDISCRIMINATION

1. During the performance of this Contract, the Consultant, for itself, its Subconsultants, assignees and successors shall:

- a. Not discriminate on the basis of race, color, national origin, or sex and shall carry out applicable requirements of 49 CFR Part 26 in the performance of this Contract. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract, disqualification from proposing on other Contracts or other remedy as the State deems appropriate.
- b. Comply with Executive Order 2009-09, "Prohibition of Discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this Contract.
- c. Comply with the provisions of Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). Said provisions are made applicable by reference and are hereinafter considered a part of this Contract.
- d. Post in conspicuous places available to employees and applicants for employment, the following notice:

"It is the policy of this company not to discriminate against any employee, or applicant for employment, because of race, color, religion, creed, national origin, sex, age, handicapped, or disabled veterans and Vietnam era veterans. Such actions shall include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising; laying-off or termination; rates of pay or other compensation; and selection for training, and on-the- job training. Also, it is the policy to ensure and maintain a working environment free of harassment, intimidation and coercion."

- e. Comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter USDOT), 49 CFR Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- f. Not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or

indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

- g. In all solicitations either by competitive bidding or negotiations made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, notify each potential Subconsultant or supplier of the Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, or national origin.
 - h. Provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State as appropriate, and shall set forth what efforts it has made to obtain the information.
2. In the event of the Consultant's noncompliance with the NONDISCRIMINATION provision (Section A) of this Contract, the State shall impose such Contract sanctions as the State or FHWA may determine to be appropriate, including but not limited to:
 - a. Withholding of payments to the Consultant under the Contract until the Consultant complies,and/or;
 - b. Cancellation, termination, or suspension of the Contract, in whole or in part.
3. The Consultant shall include the provisions of paragraph 1.a. through 1.h. in every subcontract with Subconsultants, DBEs and non-DBEs, including procurement of materials and equipment leases, unless exempt by the Regulations or directives issued pursuant thereto.
4. The Consultant shall take such action with respect to any Subconsultants or procurement as the State or the Federal Aviation Administration (FAA), FHWA and the Federal Transit Administration (FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in or is threatened with litigation with a Subconsultant or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State, and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

22. AFFIRMATIVE ACTION

Contractor shall take the following affirmative action steps with respect to securing supplies, equipment, or services under the terms of this contract:

- a. Include qualified firms owned by socially and economically disadvantaged individuals on solicitation lists.
- b. Assure that firms owned by socially and economically disadvantaged individuals are solicited whenever they are potential sources.
- c. When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum participation by firms owned by socially and economically disadvantaged individuals.
- d. Where the requirement permits, establish delivery schedules which will encourage participation by firms owned by socially and economically disadvantaged individuals.
- e. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, and the Community Services Administration, as required.

23. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed

with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

24. FEDERAL CHANGES

The Contactor and its sub-contractors shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

25. PROMPT PAY

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

26. FULL AND OPEN COMPETITION

In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be

conducted in a manner that provides full and open competition.

27. PROHIBITION AGAINST EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

28. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

29. ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy.

Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

30. NOTIFICATION OF FEDERAL PARTICIPATION

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

31. INTEREST OF MEMBERS OR DELEGATES TO CONGRESS

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

32. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS

Any name appearing upon the Comptroller General’s list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General’s list of ineligible contractors (<https://www.sam.gov/SAM/>) for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

33. OTHER CONTRACT REQUIREMENTS

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient’s Procurement Guidelines, available upon request from the Department.

34. COMPLIANCE WITH FEDERAL REGULATIONS

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT- required contractual provisions, as set forth in FTA Circular 4220, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

35. REAL PROPERTY

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by Map-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

36. ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP)

Beneficiaries,” 70 Fed. Reg. 74087, December 14, 2005.

37. ENVIRONMENTAL JUSTICE

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42

U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

38. ENVIRONMENTAL PROTECTIONS

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

39. GEOGRAPHIC INFORMATION RELATED TO SPATIAL DATA

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

40. GEOGRAPHIC PREFERENCE

Pursuant to 2 CFR 200.319(b), all procurements must be conducted in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract).

41. ORGANIZATIONAL CONFLICTS OF INTEREST

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows:

- (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:
 - (a) To that Third Party Participant or another Third Party Participant performing the Project work, and
 - (b) That impairs that Third Party Participant's objectivity in performing the Project work, or
- (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,
- (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:
 - (a) Any instances of organizational conflict of interest, or
 - (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and
- (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

42. VETERANS PREFERENCE

As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

43. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) IDENTIFICATION NUMBER

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

44. AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

45. BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency.”

46. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

44. BUS TESTING

The operator of the bust testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus

model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the Agency during the point in the procurement process specified by the Agency, but in all cases before final acceptance of the first bus by the Agency. The complete bus testing report requirements are provide in 49 C.F.R. § 665.11.

45. CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

46. E-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

EXHIBIT 1
Title VI/Non-Discrimination Assurances
Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1. Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the *Federal Highway Administration*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *Federal Highway Administration* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *Federal Highway Administration*, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration* may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient or the *Federal Highway Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that **if** the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT 2
Title VI/Non-Discrimination Assurances
Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 *et. seq.*).



EXHIBIT 3

ADOT Procurement Quarterly Usage Report

This exhibit outlines the content required for the quarterly usage report. Usage reports will be submitted to the appropriate Procurement Officer in accordance with the requirements specified in Special Terms and Conditions. The Department reserves the right to make additions, deletions and changes as deemed necessary.

Reporting Period:

Contract ID/Code:		Contact Name:		Alternate Contact Name:	
Contract Label/Description:		Contact Phone Number:		Alternate Contact Phone Number:	
Contractor:		Contact Email:		Alternate Contact Email:	
Contractor Address:					

[illegible]

EXHIBIT 4
ON-SITE MANUFACTURER INSPECTION
COMPLIANCE CERTIFICATION

(Post-Delivery purchaser's requirement, in compliance with the federal requirements of 49 U.S.C. Section 5323(m))

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 10 vehicles for areas >200,000 in population)

As required by 49 CFR Part 663 Subpart C, the

(Recipient's name)
Certifies that a resident inspector,

(Name of inspector)
Was at

(the manufacturer's)
manufacturing site during the period of manufacture of the buses,

(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 20 vehicles for areas < 200,000 in population)

As required by 49 CFR Part 663 Subpart C, the

(Recipient's name)
Certifies that a resident inspector,

(Name of inspector)
Was at

(the manufacturer's)
manufacturing site during the period of manufacture of the buses,

(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

Signature _____ Date ____/____/____
Title _____

EXHIBIT 5

PRE-AWARD AUDIT AND CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
PRE-AWARD AUDIT (before issuing purchase order)		
Pre-award audit requirements.		Master Agreement;
A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.		49 CFR §663.21
49 CFR 661.13 Grantee Responsibility		
(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with FTA Section 16. Preference for United States Products and Services.		
a. Buy America. Domestic preference procurement requirements of:		49 CFR §663.13
(1) 49 U.S.C. § 5323(j), as amended by FAST Act, and		
(2) FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with FAST Act,		
49 CFR §663.23 Description of pre-award audit. A pre-award audit under this part includes—		
(a) A Buy America certification as described in §663.25 of this part;		49 CFR §663.23
(b) A purchaser's requirements certification as described in §663.27 of this part; and		
(c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in §663.41 or §663.43 of this part.		
Met? Y/N (if NO 1b, 1 REQ'D)	(1) A Buy America certification:	
	a) There is a letter from FTA which grants a waiver OR	
Met? Y/N (if NO 1a, 2 REQ'D)	b) ADOT reviewed documentation provided by the manufacturer which lists—	49 CFR §663.25
	1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and	
	2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.	
Met? Y/N (2 REQ'D)	(2) A purchaser's requirements certification:	
	a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and	49 CFR §663.27
	b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's	
Met? Y/N (1 REQ'D)	(3) A manufacturer's Federal Motor Vehicle Safety certification or Certification that Federal motor vehicle standards do not apply.	
	a) If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	49 CFR §663.41
	a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer.	49 CFR §663.43

EXHIBIT 6 PURCHASER'S PRE-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		
Description		
Program/Phase/Amount s		
Purchaser's Pre-Award Requirements Certification 49 CFR §663.27		
I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and		
I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's		
	Signature	
	Date Signed	

EXHIBIT 7

PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation LAW/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis* (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; and	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 7

PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/A mounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation LAW/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis* (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; and	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 8 PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		
Description		
Program/Phase/Amount s		
Purchaser's Post-Award Requirements Certification 49 CFR §663.37		
I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and		
I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's		
	Signature	
	Date Signed	

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: One (1)
DESCRIPTION: New Vehicles Purchase	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. The solicitation due date has been changed from January 17, 2022 at 3:00 PM MST to January 19, 2022 at 3:00 PM MST.
2. All other terms, conditions and provisions of this solicitation remain unchanged.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Two (2)
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. Specifications

The following sections are hereby modified to read:

- a. **Paragraph 2.1** "The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures."
- b. **Paragraph 3.3.1, 3.5.1 and 3.5.2** is hereby removed.
- c. **Paragraph 4.1:** "The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency."
- d. **Paragraph 4.1.1** is hereby removed.
- e. **Paragraph 4.4.1:** "The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency. "
- f. **Paragraph 4.6.1:** " Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW."

2. Special Terms and Conditions

The following sections are hereby modified to read:

- a. **Paragraph 11.1, (a-g):** "Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.
 - a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Three (3)
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. Specifications

The following sections are hereby modified to read:

- a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."
- b. **Paragraph 3.10:** "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Two (2)
DESCRIPTION: New Vehicles Purchases	

- b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
- c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
- d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
- e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.
- f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.
- g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order. "

b. Paragraph 22 is hereby replaced with the following: "The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. 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>"

c. Paragraph 25: Co-op administrative fee has hereby been removed.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Two (2)
DESCRIPTION: New Vehicles Purchases	

3. **Offer Response Form** is hereby replaced with Revision Two (2) attachment.
4. All other terms, conditions and provisions of this solicitation remain unchanged.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Three (3)
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. Specifications

The following sections are hereby modified to read:

- a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."
- b. **Paragraph 3.10:** "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Offer Response Form for New Vehicle Purchases Revision Two (2)

Please respond to the following items according to the instructions below. Each response should demonstrate the Offeror's ability to satisfy the Specifications requirements. **Failure to respond may negatively impact the option to award.**

1.1. The Contractor shall provide the goods/services described in any or all of the contract categories. Indicate the categories that apply to your offer:

- ☒ **Category One: Phase One (1) Vehicle Purchases**
- ☒ **Category Two: Phase Two (2) Vehicle Purchases**
- ☒ **Category Three: FTA Funded Vehicles**

1.2 PHASE ONE (1) Pricing for New Vehicle Purchases: Price List: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the time of Proposal submittal.* Do not provide pricing on any other format other than what is provided below:

Phase One (1) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Ford Mustang	11%
Ford Mustang Mach-e	-1%
Ford EcoSport	8%
Ford Escape	9%
Ford Edge	13%
Ford Explorer	11%
Ford Expedition	13%
Ford Bronco Sport	10%
Ford Bronco	8%
Ford Maverick	6%
Ford Ranger	14%
Ford F150	11%
Ford F-Super Duty	12%

Offer Response Form for New Vehicle Purchases Revision Two (2)

Ford Transit Connect	11%
Ford Transit	9%

1.3 PHASE TWO (2) Pricing for New Vehicle Purchases: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the time of Proposal submittal.* Do not provide pricing on any other format other than what is provided below:

Phase One (1) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Ford Mustang	2%
Ford Mustang Mach-e	-5%
Ford EcoSport	3%
Ford Escape	3%
Ford Edge	4%
Ford Explorer	3%
Ford Expedition	4%
Ford Bronco Sport	3%
Ford Bronco	2%
Ford Maverick	3%
Ford Ranger	8%
Ford F150	1%
Ford F-Super Duty	8%
Ford Transit Connect	7%
Ford Transit	5%

Offer Response Form for New Vehicle Purchases
Revision Two (2)

Offer Response Form for New Vehicle Purchases Revision Two (2)

1.4 Delivery Fees: If the contractor offers delivery for the following counties, they must be indicate and include any delivery fee associated with those areas as applicable.

County	Delivery Fee \$	County	Delivery Fee \$	County	Delivery Fee \$
☒ Apache	\$300	☒ Greenlee	\$300	☒ Pima	\$250
☒ Cochise	\$300	☒ La Paz	\$300	☒ Pinal	\$0
☒ Coconino	\$250	☒ Maricopa	\$0	☒ Santa Cruz	\$300
☒ Gila	\$0	☒ Mohave	\$350	☒ Yavapai	\$150
☒ Graham	\$250	☒ Navajo	\$250	☒ Yuma	\$300

1.5 Evaluation Pricing: The Contractor shall submit pricing for the following Vehicles. The vehicles listed which is representative of the scope of work that will be performed under this Contract, and therefore constitutes a fair method for determining price fair and reasonable:

1.5.1 Phase One (1) Evaluation Pricing:

<u>Estimated Usage Quantity</u>	<u>PHASE ONE (1) Base Model Vehicle</u>	<u>Base Price for Phase One (1)</u>	<u>Additional Information</u>
75	Sports Utility Vehicle (SUV) (<i>base model</i>) Per Minimum Specifications	\$22,746.00	
25	One (1) Ton Cargo Van (<i>base model</i>) Per Minimum Specifications	\$35,158.00	
50	1/2 Ton Truck Regular Cab (<i>base model</i>) Per Minimum Specifications	\$27,723.00	

Offer Response Form for New Vehicle Purchases
Revision Two (2)

1.5.2. Phase Two (2) Evaluation Pricing:

<u>Estimated Usage Quantity</u>	<u>PHASE TWO (2) Base Model Vehicle</u>	<u>Base Price for Phase TWO (2)</u>	<u>Additional Information</u>
25	Sports Utility Vehicle (SUV) (<i>base model</i>) Per Minimum Specifications	\$25,415.00	
15	One (1) Ton Cargo Van (<i>base model</i>) Per Minimum Specifications	\$39,890.00	
25	1/2 Ton Truck Regular Cab (<i>base model</i>) Per Minimum Specifications	\$31,702.00	

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
SAN TAN AUTO PARTNERS, LLC,
DBA SAN TAN FORD

[Purchase Order]

See following pages.

Prepared for: Matt Green, Fleet Supervisor, Town of Chino Valley

Office: 928-636-2646 | Mobile: 928-499-5146

Email: mgreen@chinoaz.net

End User FIN Code: KA595

Ship to:

Matt Green, Town of Chino Valley

2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420

Client Proposal

Prepared by:

Joe Sanchez

Office: 480-621-3741

Email: joesanchez@santanford.com

Quote ID: 71724-4

Date: 07/17/2024



San Tan Ford | 1429 East Motorplex Loop, Gilbert, Arizona, 852970410

Office: 480-821-3200 | Fax: 480-988-1691



Government Fleet Account Manager

Joe Sanchez (480) 621-3741

joesanchez@santanford.com

Department Fax (480) 621-3796

Date: July 17, 2024

Customer: Town of Chino Valley

Line Item/State Contract #: W1P / CTR059323

Vehicle Description: 2024 Ford F150 Police Responder

with 3.5L EcoBoost V6 Engine

Base Bid Price **\$47,185.00**

Upgrade Options

1	18" Aluminum Wheels	485.00
2	8-Way Power Passenger Seat	300.00
3	Black Platform Running Boards	255.00
4	Rear Window Fixed Privacy Glass	100.00
5	Remote Keyless Entry	Standard on Contract
6	Window Tint	300.00
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19		
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\$1,440.00

Bid Price (with options) **\$48,625.00**

Tire Tax 5.00
Sales Tax (7.80%) 3,792.75

Ford Extended Service Plan

Transportation Fee **\$300.00**

Total Delivered Price **\$52,722.75**

Notes:

Thank You,
Joe



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

As Configured Vehicle

Code	Description
Base Vehicle	
W1P	Base Vehicle Price (W1P)
Packages	
150A	Equipment Group 150A <i>Includes:</i> - Engine: 3.5L V6 EcoBoost 120-MPH top speed. - Transmission: Electronic 10-Speed Automatic <i>Includes selectable drive modes: normal/tow-haul/snow-wet/EcoSelect/sport and SelectShift automatic with progressive range select.</i> - Electronic Locking w/3.31 Axle Ratio - GVWR: 7,050 lbs Payload Package - Tires: LT265/70R18 BSW A/T - HD Police-Grade Cloth 40/Blank/40 Front-Seats <i>Includes reduced bolsters, 8-way power driver/manual passenger, built-in steel intrusion plates in both front-seatbacks, center-section deleted (Restraint control module cover provided) and vinyl rear bench.</i> - Radio: AM/FM Stereo w/6 Speakers - SYNC 4
Powertrain	
998	Engine: 3.5L V6 EcoBoost <i>120-MPH top speed.</i>
44G	Transmission: Electronic 10-Speed Automatic <i>Includes selectable drive modes: normal/tow-haul/snow-wet/EcoSelect/sport and SelectShift automatic with progressive range select.</i>
XL3	Electronic Locking w/3.31 Axle Ratio
STDGV	GVWR: 7,050 lbs Payload Package
Wheels & Tires	
STDTR	Tires: LT265/70R18 BSW A/T
64H	Wheels: 18" Aluminum
Seats & Seat Trim	
P	HD Police-Grade Cloth 40/Blank/40 Front-Seats <i>Includes reduced bolsters, 8-way power driver/manual passenger, built-in steel intrusion plates in both front-seatbacks, center-section deleted (Restraint control module cover provided) and vinyl rear bench.</i>
61P	8-Way Power Passenger Seat

Prepared for: **Matt Green**
Fleet Supervisor, Town of Chino Valley
Prepared by: Joe Sanchez
07/17/2024



San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

As Configured Vehicle (cont'd)

Code	Description
Other Options	
145WB	145" Wheelbase
PAINT	Monotone Paint Application
STDRD	Radio: AM/FM Stereo w/6 Speakers <i>Includes: - SYNC 4</i>
18B	Black Platform Running Boards
924	Rear Window Fixed Privacy Glass w/Defroster
67P	Remote Keyless-Entry Key Fob w/o Key Pad <i>Less PATS. Includes 4-key fobs and perimeter anti-theft alarm. Note: Available with Keyed Alike. However, key fobs are not fobbed alike when ordered with Keyed Alike.</i>
Emissions	
425	50 State Emissions System
Exterior Color	
YZ_01	Oxford White
Interior Color	
PB_02	Black w/HD Police-Grade Cloth 40/Blank/40 Front-Seats

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2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Pricing Summary - Single Vehicle

			MSRP
<i>Vehicle Pricing</i>			
Base Vehicle Price			\$51,610.00
Options			\$1,490.00
Colors			\$0.00
Upfitting			\$0.00
Fleet Discount			\$0.00
Fuel Charge			\$0.00
Destination Charge			\$1,995.00
Subtotal			\$55,095.00
<i>Pre-Tax Adjustments</i>			
Code	Description		MSRP
Discount	San Tan Ford Vehicle Discount		-\$6,770.00
Tint	Window Tint		\$300.00
Subtotal			\$48,625.00
<i>Sales Taxes</i>			
Code	Description		MSRP
City Sales Tax	Gilbert Sales Tax		\$729.38
State Tax	Arizona State Sales Tax		\$3,063.38
Subtotal			\$52,417.76
<i>Post-Tax Adjustments</i>			
Code	Description		MSRP
Tire Tax	Tire Tax		\$5.00
Transportation	Vehicle Transportation		\$300.00
Subtotal			\$52,722.76
Total			\$52,722.76

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San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Pricing Summary - Single Vehicle

Customer Signature

Acceptance Date



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs

Dimensions

- Conventional Capacity: 10,400 lbs.
- Fifth-wheel towing capacity: 8,100 lbs.
- Front brake diameter: 13.8"
- Cargo box length: 66.0"
- Cargo box volume: 52.8 cu.ft.
- Cargo box max width: 65.2"
- Cargo box length feet: 5.5
- Vehicle body width: 79.9"
- Wheelbase: 145.0"
- Front track: 67.9"
- Frame section modulus: 5.2 cu.in.
- Front bumper to front axle: 37.6"
- Max interior rear cargo volume: 50.9 cu.ft.
- Headroom first-row: 40.8"
- Leg room first-row: 43.9"
- Shoulder room first-row: 66.7"
- Hip room first-row: 62.5"
- GCWR: 16,800 lbs.
- Gooseneck towing capacity: 8,100 lbs.
- Rear brake diameter: 13.8"
- Cargo box min width: 50.6"
- Pickup box depth: 21.4"
- Cargo box tailgate width: 60.3"
- Vehicle body length: 231.7"
- Vehicle body height: 77.2"
- Vehicle turning radius: 23.9'
- Rear track: 67.9"
- Frame yield strength (psi): 49300.0
- Interior rear cargo volume with seats folded: 50.9 cu.ft.
- Total passenger volume: 131.9 cu.ft.
- Headroom second-row: 40.4"
- Leg room second-row: 43.6"
- Shoulder room second-row: 66.0"
- Hip room second-row: 62.6"

Powertrain

- Spark ignition system
- Engine cylinders: V-6
- Torque: 500 lb.-ft.@3100 RPM
- 10-speed automatic
- Four-wheel drive
- Easy Fuel capless fuel filler
- Electronic transfer case shift
- Auto locking hub control
- EcoBoost 3.5L V-6 port/direct injection, DOHC, variable valve control, twin turbo, engine with 400HP
- Horsepower: 400 HP@6000 RPM
- Radiator
- Automatic full-time 4WD
- Recommended fuel: regular unleaded
- All-speed ABS and driveline traction control
- Driver selectable rear locking differential

Fuel Economy and Emissions

- Fuel economy (city/highway/combined): 17 mpg/23 mpg/19 mpg
- Fuel economy combined: 19 mpg
- Gasoline secondary fuel type
- Fuel economy city: 17 mpg
- Fuel economy highway: 23 mpg
- LEV3-ULEV70 emissions

Suspension and Handling

- Off-road ride suspension
- Heavy-duty rear shock absorbers
- Heavy-duty front shock absorbers

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Fleet Supervisor, Town of Chino Valley

Prepared by: Joe Sanchez

07/17/2024

San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Driveability

- 4-wheel disc brakes
- 4-wheel antilock (ABS) brakes
- Electronic parking brake
- Hill Descent Control
- Independent front suspension
- Heavy-duty front anti-roll bar
- Rigid axle rear suspension
- Speed sensitive power steering
- Rack-pinion steering
- Front and rear ventilated disc brakes
- Four channel ABS brakes
- Brake assist system
- Hill Start Assist
- Double wishbone front suspension
- Front coil springs
- Leaf spring rear suspension
- Electric power-assist steering system
- 2-wheel steering system

Body Exterior

- Trailer wiring harness
- * **Running boards**
- Standard style pickup box
- Clearcoat paint
- Black side window trim
- Black front bumper
- Black rear bumper
- Black front bumper rub strip
- Standard style side mirrors
- Conventional left rear passenger door
- Tailgate
- LT265/70RS18 AT BSW front and rear tires
- Dynamic Hitch Assist vehicle to trailer hitching assist
- 4 doors
- Pickup bed-rail protectors
- Monotone paint
- Black door handles
- 2 front tow hooks
- Rear bumper step
- Black grille
- Black door mirrors
- Conventional right rear passenger door
- Active grille shutters
- * **18 x 8.5-inch front and rear silver aluminum wheels**

Convenience

- Power door locks with 2 stage unlocking
- * **All-in-one remote fob and ignition key**
- Power tailgate/rear door lock
- Day/Night rearview mirror
- * **Rear window defroster**
- Front beverage holders
- 6 beverage holders
- Rear door bins
- Instrument panel bin
- Cabback insulator
- PRND in IP
- * **Keyfob activated door locks**
- Auto-locking doors
- Cruise control with steering wheel mounted controls
- Power first-row windows
- Fixed rear windshield
- Standard glove box
- Driver and passenger door bins
- Rear beverage holders
- Dashboard storage
- Over the air updates

Comfort

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2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

- Manual climate control
- Rear under seat climate control ducts
- Full headliner coverage
- Full floor coverage
- Carpet rear seatback upholstery
- Manual tilting steering wheel
- Cabin air filter
- Cloth headliner material
- Full vinyl floor covering
- Vinyl rear seat upholstery
- Urethane steering wheel
- Manual telescopic steering wheel

Seats and Trim

- Seating capacity: 5
- Driver seat with 8-way directional controls
- Height adjustable front seat head restraints
- Power reclining driver seat
- Power driver seat fore/aft control
- * **Power reclining passenger seat**
- * **Power passenger seat fore/aft control**
- Fixed rear seats
- Split-bench rear seat
- * **Front passenger seat with 2-way power lumbar**
- 40-40 bucket front seat
- * **Front passenger seat with 8-way directional controls**
- Manual front seat head restraint control
- Power height adjustable driver seat
- Power driver seat cushion tilt
- * **Power height adjustable control passenger seat**
- * **Power passenger seat cushion tilt**
- Height adjustable rear seat head restraints
- Driver seat with 2-way power lumbar
- Cloth front seat upholstery

Entertainment Features

- 2 total number of 1st row displays
- Primary touchscreen display
- * **AM/FM**
- AM radio
- Seek scan
- SYNC 4 external memory control
- Standard grade speakers
- Steering wheel mounted audio controls
- Speed sensitive volume
- Fixed audio antenna
- 12 inch primary display
- AM/FM stereo radio
- In-vehicle audio
- FM radio
- Radio data system (RDS)
- Internet radio capability
- Speakers number: 6
- SYNC 4 voice activated audio controls
- Bluetooth wireless audio streaming

Lighting, Visibility and Instrumentation

- Analog instrumentation display
- In-radio display clock
- Exterior temperature display
- Tachometer
- Engine/electric motor temperature gauge
- Transmission fluid temperature gauge
- Gauge cluster display size (inches): 4.00
- Reflector headlights
- Trip odometer
- Compass
- Redundant digital speedometer
- Oil pressure gauge
- Voltmeter
- Engine hour meter
- * **Deep tinted windows**
- LED low and high beam headlights

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2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

- Ford Co-Pilot360 - Autolamp auto on/off headlight control
- Delay-off headlights
- Variable intermittent front windshield wipers
- Variable instrument panel light
- Daytime running lights
- Fade interior courtesy lights
- Multiple enclosed headlights
- DRL preference setting
- Illuminated entry
- Ambient lighting
- High mounted center stop light
- Pickup box cargo light

Technology and Telematics

- SYNC 4 911 Assist emergency SOS system via mobile device
- Smart device wireless mirroring
- 1 USB port
- SYNC 4 handsfree wireless device connectivity
- Fleet Telematics Modem selective service internet access

Safety and Security

- Driver front impact airbag
- Safety Canopy System curtain first and second-row overhead airbags
- Seat mounted side impact front passenger airbag
- 6 airbags
- Front height adjustable seatbelts
- 2 seatbelt pre-tensioners
- Security system
- BLIS (Blind Spot Information System)
- Ford Co-Pilot360 - Pre-Collision Assist with Pedestrian Detection
- AdvanceTrac w/Roll Stability Control electronic stability control system with anti-rollover
- Manual rear child safety door locks
- Seat mounted side impact driver airbag
- Passenger front impact airbag
- Airbag occupancy sensor
- Rear seat center 3-point seatbelt
- Front seatbelt pretensioners
- Fleet Telematics Modem vehicle tracker
- * Remote panic alarm
- Automatic Emergency Braking forward collision mitigation
- Rear mounted camera
- Reverse Sensing System rear parking sensors

Dimensions

General Weights

Curb weight	5,016 lbs.	Rear curb weight	2,077 lbs.
GVWR	7,050 lbs.	Payload	2,030 lbs.

Trailer Weights

Fifth-wheel towing capacity	8,100 lbs.	Gooseneck towing capacity	8,100 lbs.
Conventional capacity	10,400 lbs.	GCWR	16,800 lbs.

Front Weights

Front curb weight	2,939 lbs.	GAWR front	3,450 lbs.
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2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Axle capacity front	3,750 lbs.	Spring rating front	3,450 lbs.
* Tire/wheel capacity front	4,200 lbs.		

Rear Weights

GAWR rear	3,800 lbs.	Axle capacity rear	4,800 lbs.
Spring rating rear	3,800 lbs.	* Tire/wheel capacity rear	4,800 lbs.

Off Road

Min ground clearance	9.4"	Loading floor height	34.9 "
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Exterior Measurements

Vehicle body length	231.7"	Vehicle body width	79.9"
Vehicle body height	77.2"	Wheelbase	145.0"
Front brake diameter	13.8"	Cargo box length	66.0"
Rear brake diameter	13.8"	Cargo box min width	50.6"
Cargo box volume	52.8 cu.ft.	Pickup box depth	21.4"
Cargo box max width	65.2"	Cargo box tailgate width	60.3"
Cargo box length feet	5.5	Front track	67.9"
Rear track	67.9"	Vehicle turning radius	23.9'
Frame section modulus	5.2 cu.in.	Frame yield strength (psi)	49300.0
Front bumper to front axle	37.6"		

Interior Measurements

Max interior rear cargo volume	50.9 cu.ft.	Interior rear cargo volume with seats folded	50.9 cu.ft.
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Interior Volume

Total passenger volume	131.9 cu.ft.
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Headroom

Headroom first-row	40.8"	Headroom second-row	40.4"
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Legroom

Leg room first-row	43.9"	Leg room second-row	43.6"
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Shoulder Room

Shoulder room first-row	66.7"	Shoulder room second-row	66.0"
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Hip Room

Hip room first-row	62.5"	Hip room second-row	62.6"
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Powertrain

Engine

Engine	EcoBoost 3.5L V-6 port/direct injection, DOHC, variable valve control, twin turbo, engine with 400HP	Valves per cylinder	4
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2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Engine cylinders V-6
Ignition Spark ignition system

Engine block material ... Aluminum engine block

Engine Specs

Displacement 3.5L
Bore 3.64"
Compression ratio 10.5

Engine Power

Horsepower 400 HP@6000 RPM

Alternator

Alternator amps 240A

Battery

Battery amps 80Ah
Battery rating 800CCA

Engine Extras

Radiator Radiator

Transmission

Transmission 10-speed automatic

Overdrive transmission... Overdrive transmission
First gear ratio 4.696
Third gear ratio 2.146
Fifth gear ratio 1.52
Reverse gear ratio 4.866
Eighth gear ratio 0.854
Tenth gear ratio 0.636

Sequential shift control ... SelectShift Sequential
shift control

Drive Type

4WD type Automatic full-time 4WD

Drivetrain

Axle ratio 3.31

Exhaust

Tailpipe Stainless steel single exhaust

Engine location Front mounted engine
Engine mounting direction... Longitudinal mounted
engine
Cylinder head material ... Aluminum cylinder head

cc 213.3 cu.in.
Stroke 3.41"
SAEJ1349 AUG2004 compliant

Torque 500 lb.-ft.@3100 RPM

Alternator type Heavy-duty alternator

Battery type HD lead acid battery
Battery run down protection ... Battery run down
protection

Transmission electronic control Transmission
electronic control
Lock-up transmission Lock-up transmission
Second gear ratio 2.985
Fourth gear ratio 1.769
Sixth gear ratio 1.275
Seventh gear ratio 1
Ninth gear ratio 0.689
Selectable mode transmission ... Selectable mode
transmission

Drive type Four-wheel drive



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Fuel

Fuel type regular unleaded

Fuel Tank

Capless fuel filler Easy Fuel capless fuel filler Fuel tank capacity 25.99 gal.

Drive Feature

Traction control All-speed ABS and driveline traction control Locking hub control Auto locking hub control
Transfer case Electronic transfer case shift Rear locking differential Driver selectable rear locking differential

Provisions

Provisions Police/fire provisions

Fuel Economy and Emissions

Fuel Economy

Secondary fuel type Gasoline secondary fuel type Fuel economy combined 19 mpg
Fuel economy city 17 mpg Fuel economy highway 23 mpg
Fuel economy (city/highway/combined) 17 mpg/23 mpg/19 mpg Fuel economy status Previous year fuel economy status

Emissions

Emissions LEV3-ULEV70 emissions Emissions tiers Tier 3 Bin 70 emissions

Green Values

Energy Impact Score (Barrels per year) 17.3 Carbon FP / Tailpipe and upstream total GHG (CO2, tons per year) 9.3

Suspension and Handling

Suspension

Suspension Off-road ride suspension Front shock absorbers Heavy-duty front shock absorbers
Rear shock absorbers Heavy-duty rear shock absorbers

Driveability

Brakes

Brake type 4-wheel disc brakes Ventilated brakes Front and rear ventilated disc brakes
ABS brakes Four channel ABS brakes Electronic parking brake Electronic parking brake
ABS brakes 4-wheel antilock (ABS) brakes



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Brake Assistance

Hill start assist Hill Start Assist
Brake assist system Brake assist system

Front Suspension

Front anti-roll Heavy-duty front anti-roll bar
Suspension type front Double wishbone front suspension
Suspension ride type front Independent front suspension

Front Spring

Regular front springs Regular front springs
Springs front Front coil springs

Rear Spring

Springs rear Rear leaf springs
Rear springs Regular grade rear springs

Rear Suspension

Suspension type rear Leaf spring rear suspension
Suspension ride type rear Rigid axle rear suspension

Steering

Steering Electric power-assist steering system
Speed sensitive steering Speed sensitive power steering
Steering type Rack-pinion steering
Steering type number of wheels 2-wheel steering system

Exterior

Front Wheels

Front wheels diameter 18" Front wheels width 8.5"

Rear Wheels

Rear wheels diameter 18" Rear wheels width 8.5"

Front And Rear Wheels

* Appearance silver * Material aluminum

Front Tires

Aspect 70 Diameter 18"
Sidewalls BSW Speed S
Tread AT Type LT
Width 265mm

Rear Tires

Aspect 70 Diameter 18"
Sidewalls BSW Speed S
Tread AT Type LT

Prepared for: **Matt Green**
Fleet Supervisor, Town of Chino Valley
Prepared by: Joe Sanchez
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San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Width 265mm

Body Exterior

Trailer

Towing capability	Trailer towing capability	Towing class	Class IV tow rating
Towing hitch	Trailer hitch	Towing wiring harness	Trailer wiring harness
Towing trailer sway	Trailer sway control		

Exterior Features

Box style	Standard style pickup box	Number of doors	4 doors
*Running boards	Running boards	Skid plate	3 underbody skid plates

Body

Body panels .. Aluminum body panels with side impact beams

Tires

Front tires LT load rating	C	Rear tires LT load rating	C
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Convenience

Door Locks

Door locks	Power door locks with 2 stage unlocking	*Keyfob door locks	Keyfob activated door locks
*All-in-one key	All-in-one remote fob and ignition key	Auto door locks	Auto-locking doors
Tailgate control	Power tailgate/rear door lock		

Cruise Control

Cruise control .. Cruise control with steering wheel mounted controls

Rear View Mirror

Day/Night rearview mirror .. Day/Night rearview mirror

Exterior Mirrors

Door mirrors	Power door mirrors	Folding door mirrors	Manual folding door mirrors
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Front Side Windows

First-row windows .. Power first-row windows

Overhead Console

Overhead console	Mini overhead console	Overhead console storage	Overhead console storage
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Passenger Visor

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2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Visor passenger mirror ... Passenger visor mirror

Power Outlets

12V power outlets 2 12V power outlets

Rear Windshield

*Rear window defrosterRear window defroster

Rear windshield Fixed rear windshield

Storage

Door bins front Driver and passenger door bins
Number of beverage holders... 6 beverage holders
Beverage holders rear... Rear beverage holders
Instrument panel storage... Instrument panel bin

Door bins rear Rear door bins
Beverage holders Front beverage holders
Glove box Standard glove box
Dashboard storage Dashboard storage

Windows Feature

One-touch up window Driver and passenger
one-touch up windows

One-touch down window... Driver and passenger
one-touch down windows

Windows Rear Side

Second-row windows Power second-row
windows

Miscellaneous

Cabback insulator Cabback insulator
Over the air updates Over the air updates

PRND in IP PRND in IP

Comfort

Climate Control

Climate control Manual climate control
Rear under seat ducts... Rear under seat climate
control ducts

Cabin air filter Cabin air filter

Headliner

Headliner material Cloth headliner material

Headliner coverage Full headliner coverage

Floor Trim

Floor covering Full vinyl floor covering

Floor coverage Full floor coverage

Second-Row Seat Trim

Rear seat upholstery... Vinyl rear seat upholstery

Rear seatback upholstery... Carpet rear seatback
upholstery

Steering Wheel

Steering wheel material Urethane steering wheel

Steering wheel tilt... Manual tilting steering wheel

Steering wheel telescopic Manual telescopic
steering wheel



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Seats and Trim

Seat Capacity

Seating capacity 5

Front Seats

Driver seat direction Driver seat with 8-way directional controls

Driver seat fore/aft control Power driver seat fore/aft control

* Passenger seat direction Front passenger seat with 8-way directional controls

* Reclining passenger seat Power reclining passenger seat

* Passenger seat fore/aft control Power passenger seat fore/aft control

Front head restraints Height adjustable front seat head restraints

Reclining driver seat Power reclining driver seat

Height adjustable driver seat Power height adjustable driver seat

Driver seat cushion tilt Power driver seat cushion tilt

Split front seats 40-40 bucket front seat

* Height adjustable passenger seat Power height adjustable control passenger seat

* Passenger seat cushion tilt Power passenger seat cushion tilt

Front head restraint control Manual front seat head restraint control

Rear Seats

Bench seats Split-bench rear seat

Folding second-row seats 60-40 folding rear seats

Rear seat folding position Fold-up rear seat cushion

Rear head restraint control Manual rear seat head restraint control

Rear seats fixed or removable Fixed rear seats

Rear seat direction Front facing rear seat

Rear head restraints Height adjustable rear seat head restraints

Number of rear head restraints 3 rear seat head restraints

Lumbar Seats

Driver lumbar Driver seat with 2-way power lumbar

* Front passenger lumbar Front passenger seat with 2-way power lumbar

Front Seat Trim

Front seat upholstery Cloth front seat upholstery

Front seatback upholstery Cloth front seatback upholstery

Interior Accents

Interior accents Chrome interior accents

Gearshifter Material

Gearshifter material Urethane gear shifter material

Entertainment Features



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Displays

Primary touchscreen display	Primary touchscreen display	Number of first-row displays	2 total number of 1st row displays
Primary display size	12 inch primary display		

Radio Features

External memory	SYNC 4 external memory control	Seek scan	Seek scan
RDS	Radio data system (RDS)	Internet radio capability	Internet radio capability

Speakers

Speakers	Standard grade speakers	Speakers number	6
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Audio Features

Steering mounted audio control	Steering wheel mounted audio controls	Speed sensitive volume	Speed sensitive volume
Voice activated audio	SYNC 4 voice activated audio controls	Wireless streaming	Bluetooth wireless audio streaming

Lighting, Visibility and Instrumentation

Instrumentation

Trip odometer	Trip odometer	Instrumentation display	Analog instrumentation display
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Instrumentation Displays

Speedometer	Redundant digital speedometer	Temperature display	Exterior temperature display
Clock	In-radio display clock	Compass	Compass

Instrumentation Gauges

Tachometer	Tachometer	Oil pressure gauge	Oil pressure gauge
Transmission temperature gauge	Transmission fluid temperature gauge	Voltmeter	Voltmeter
Engine/electric motor temperature gauge	Engine/electric motor temperature gauge	Gauge cluster display size (inches)	4.00
Engine hour meter	Engine hour meter		

Instrumentation Warnings

Engine temperature warning	Engine temperature warning	Oil pressure warning	Oil pressure warning
Low fuel warning	Low fuel warning	Low brake fluid warning	Low brake fluid warning
Battery charge warning	Battery charge warning	Headlights on reminder	Headlights on reminder
Key in vehicle warning	Key in vehicle warning	Door ajar warning	Door ajar warning



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Service interval warningService interval indicator
Low tire pressure warning.....Tire specific low air pressure warning

Glass

* Tinted windows.....Deep tinted windows

Headlights

Headlights LED low and high beam headlights
Auto headlights.....Ford Co-Pilot360 - Autolamp auto on/off headlight control
Delay off headlights.....Delay-off headlights
Headlight type.....Reflector headlights
Multiple headlights Multiple enclosed headlights
DRL preference setting...DRL preference setting

Front Windshield

Wipers...Variable intermittent front windshield wipers

Interior Lighting

Illuminated entry.....Illuminated entry
Variable panel light....Variable instrument panel light
Ambient lighting.....Ambient lighting

Lights

Running lights.....Daytime running lights
Interior courtesy lights.....Fade interior courtesy lights
High mount stop light High mounted center stop light
Pickup box cargo light.....Pickup box cargo light

Technology and Telematics

Connectivity

Handsfree SYNC 4 handsfree wireless device connectivity
Smart device integration...Smart device wireless mirroring
Emergency SOS.....SYNC 4 911 Assist emergency SOS system via mobile device

Internet Access

Internet access.....Fleet Telematics Modem selective service internet access

USB Ports

USB ports.....1 USB port

Safety and Security

Airbags

Front impact airbag driver.....Driver front impact airbag
Number of airbags.....6 airbags



2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Selected Equip & Specs (cont'd)

Front impact airbag passenger	Passenger front impact airbag	Front side impact airbag driver	Seat mounted side impact driver airbag
Front side impact airbag passenger	Seat mounted side impact front passenger airbag	Occupancy sensor	Airbag occupancy sensor
Overhead airbags	Safety Canopy System curtain first and second-row overhead airbags		

Seatbelts

3-point seatbelt	Rear seat center 3-point seatbelt	Height adjustable seatbelts	Front height adjustable seatbelts
Seatbelt pretensioners	Front seatbelt pretensioners	Seatbelt pretensioners number	2 seatbelt pretensioners

Security System

* Remote panic alarm	Remote panic alarm	Vehicle tracker	Fleet Telematics Modem vehicle tracker
Security system	Security system		

Active Driving Assistance

Blind spot	BLIS (Blind Spot Information System)	Forward collision warning	Automatic Emergency Braking forward collision mitigation
Pedestrian detection	Ford Co-Pilot360 - Pre-Collision Assist with Pedestrian Detection		

Cameras

Rear camera	Rear mounted camera
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Traction Control

Electronic stability control	AdvanceTrac w/Roll Stability Control electronic stability control system with anti-rollover
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Parking Sensors

Parking sensors	Reverse Sensing System rear parking sensors
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Occupant Safety

Child door locks	Manual rear child safety door locks
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Prepared for: **Matt Green**
Fleet Supervisor, Town of Chino Valley
Prepared by: Joe Sanchez
07/17/2024



San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 420 | Quote ID: 71724-4

Warranty

Standard Warranty

Basic Warranty

Basic warranty 36 months/36,000 miles

Powertrain Warranty

Powertrain warranty 60 months/100,000 miles

Corrosion Perforation

Corrosion perforation warranty 60 months/unlimited

Roadside Assistance Warranty

Roadside warranty 60 months/60,000 miles

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 5b
MEETING DATE: 9/10/2024
CONTACT PERSON: Frank Marbury, Public Works Director/Town Engineer
ITEM TYPE: Consent Item

AGENDA ITEM TITLE:

Consideration and possible action to approve the Cooperative Purchasing Agreement for the purchase of a 2024 Ford F150 4x4 SuperCab pickup from San Tan Ford for \$49,997.57.

SUMMARY:

The Fleet department is requesting approval to purchase a ½ ton pickup truck for the Public Works Department for use by the Inspector. This truck will see constant use and is a critical part of supporting the Public Works department's goals. The ½ ton truck will be replacing a unit that is approaching 20 years in service, well exceeding recommended replacement intervals.

PREVIOUS ACTION:

N/A

STAFF RECOMMENDATION:

Approve the Cooperative Purchasing Agreement for the purchase of a 2024 Ford F150 4x4 SuperCab pickup from San Tan Ford for \$49,997.57.

FISCAL IMPACT?

Available budget: General fund - Public Works - Engineering - Replacement Inspector Truck	\$70,000.00
Less this approval item: 2024 Ford F150 4x4 SuperCab pickup from San Tan Ford	<u>-49,997.57</u>
Remaining budget: General fund - Public Works - Engineering - Replacement Inspector Truck	\$20,002.43

ATTACHMENTS:

1.	AGR - CPA - San Tan Ford - 2024 Ford F150 4x4 SuperCab Truck
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**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
SAN TAN AUTO PARTNERS, LLC,
DBA SAN TAN FORD**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of September 10, 2024, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and San Tan Auto Partners, LLC, an Arizona limited liability company dba San Tan Ford (the “Vendor”). The Town and the Vendor are the only parties to this Agreement; they are each individually a “Party,” and together they are the “Parties.”

RECITALS

A. After a competitive procurement process, the State of Arizona (the “State”) entered into Contract No. CTR059323, dated March 17, 2022, as amended by Amendments No. 1 (undated) and No. 2 (undated) (collectively, the “State Contract”), with the Vendor for the purchase of new vehicles. 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 vehicles under the State Contract, at its discretion, and with the agreement of the Vendor.

C. The Town and the Vendor 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 Vendor may provide the Town with one 2024 F-150 truck, as more particularly set forth in Section 2 below (the “Vehicle”), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Vehicle.

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 Parties 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, 2025, unless terminated as otherwise provided in this Agreement or the State Contract.

2. Scope of Work. The Vendor shall provide the Vehicle to the Town under the terms and conditions of the State Contract and in the configuration set forth in Quote ID 71724-7 (the “Purchase Order”), attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. The Vehicle is subject to final inspection and acceptance by the Town. A Vehicle failing to conform to the requirements of this Agreement and/or the State Contract will be held at the Vendor's risk and may be returned to the Vendor. If so returned, all costs are the responsibility of the Vendor. Upon discovery of a non-conforming Vehicle, the Town may elect to do either of the following by written notice to the Vendor: (i) waive the non-conformance or (ii) bring the Vehicle into compliance and withhold the cost of same from any payments due to the Vendor.

4. Compensation. The Town shall pay the Vendor an amount not to exceed \$49,997.57 for the Vehicle at the unit rate set forth in the State Contract and as more particularly set forth in the Purchase Order.

5. Payments. The Town shall pay the Vendor upon delivery and acceptance of the Vehicle and upon submission and approval of the invoice. The invoice shall (i) contain a reference to this Agreement and the State Contract and (ii) document the Vehicle delivered and accepted to date. Additionally, an invoice submitted without referencing this Agreement and the State Contract will be subject to rejection and may be returned.

6. Records and Audit Rights. To ensure that the Vendor and its subcontractors are complying with the warranty under Section 7 below, the Vendor'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 Vendor'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 evaluation of the Vendor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 7 below. To the extent necessary for the Town to audit Records as set forth in this Section, the Vendor 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 Vendor pursuant to this Agreement. The Vendor 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 Vendor or its subcontractors reasonable advance notice of intended audits. The Vendor 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.

7. E-Verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Vendor 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 Vendor's or its subcontractors' 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.

8. Israel. To the extent applicable under ARIZ. REV. STAT. § 35-393 through § 35-393.03, 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.

9. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

10. 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.

11. 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 Vendor 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 Vendor 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.

12. Conflicting Terms. In the event of any inconsistency, conflict, or ambiguity among the terms of this Agreement, including any amendments, the State Contract, the Purchase Order, and the invoice, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement or the State Contract (collectively, the “Unauthorized Conditions”), other than the Town’s project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the State Contract shall not alter such terms and conditions or relieve the Vendor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

13. 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.

14. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 13 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 Vendor's obligation to provide the indemnification and insurance.

15. 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, 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:

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 PLC
 One East Washington Street, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire

If to the Vendor: San Tan Auto Partners, LLC, dba San Tan Ford
 1429 East Motorplex Loop
 Gilbert, Arizona 85297-0410
 Attn: Joe Sanchez

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.

16. Forced Labor of Ethnic Uyghurs. To the extent applicable under ARIZ. REV. STAT. § 35-394, the Vendor 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 Vendor 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 Vendor 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 its termination date.

17. Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which constitutes an original, but all of which together constitute one and the same Agreement.

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

“Town”

TOWN OF CHINO VALLEY,
an Arizona municipal corporation

“Vendor”

SAN TAN AUTO PARTNERS, LLC,
an Arizona limited liability company dba
SAN TAN FORD

Jack W. Miller, Mayor

Joe Sanchez, Government Fleet
Account Manager

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
SAN TAN AUTO PARTNERS, LLC,
DBA SAN TAN FORD

[State Contract CTR059323]

See following pages.



OFFER AND ACCEPTANCE

OFFER

TO THE STATE OF ARIZONA:

The undersigned hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

San Tan Auto Partners DBA San Tan Ford
 Offeror (Company) Name
 1429 E Motorplex Loop
 Address
 Gilbert AZ 85297
 City State Zip
 joesanchez@santanford.com
 Email Address
 fleetsales@santanford.com
 Company Email Address


 Signature of Person Authorized to Sign Offer
 Joe Sanchez 1/18/2022
 Printed Name Date
 Government Fleet Account Manager
 Title
 480-621-3741
 Phone Number
 480-621-3796
 Fax Number

By signature in the Offer section above, the Offeror certifies that the submission of the Offer did not involve collusion or other anticompetitive practices.

ACCEPTANCE OF OFFER (FOR DEPARTMENT USE ONLY)

The Contractor is now bound to perform based upon Contract Number CTR059323 including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the state.

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this 17th day of March 2022

DocuSigned by:

 Procurement Officer. 3/10/2022
 Awarded Date

Contract Amendment Summary

CONTRACTOR: San Tan Auto Partners LLC	AMENDMENT NO.: One (1)
DESCRIPTION: New Vehicle Purchases	

Pursuant to the Uniform Terms and Conditions, Section 5, Contract Changes, the above referenced contract is amended. Summary of changes is as follows:

1. Amendment One (1) to mutually extend this contract from March 17, 2023 through March 16, 2024, unless terminated, canceled or extended as otherwise provided in the contract.
2. All other terms, conditions and provisions of this contract remain unchanged.

Contract Amendment Summary

CONTRACTOR: San Tan Auto Partners	AMENDMENT NO.: Two (2)
DESCRIPTION: CTR059323 - New Vehicles Purchases	

Pursuant to the Uniform Terms and Conditions, Section 5, Contract Changes, the above referenced contract is amended. Summary of changes is as follows:

1. Amendment Two (2) to mutually extend this contract from March 17, 2024 through March 16, 2025 unless terminated, canceled or extended as otherwise provided in the contract.
2. The executed SPO205 Forced Labor of Ethnic Uyghurs Ban form is hereby included with this amendment.
3. All other terms, conditions and provisions of this contract remain unchanged.

Forced Labor of Ethnic Uyghurs Ban

Please note that if any of the following apply to the Contractor, then the Offeror shall select the "Exempt Contractor" option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. § 35-394, the State of Arizona prohibits a public entity from entering into or renewing a contract with a company unless the contract includes written certification that the company does not use the forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Under A.R.S. §35-394:

1. "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.
2. "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.

In compliance with A.R.S. §§ 35-394 et seq., all offerors must select **one** of the following:

☒	The Company submitting this Offer does not use, and agrees not to use during the term of the contract, any of the following: • Forced labor of ethnic Uyghurs in the People's Republic of China; • Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; 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.
☐	The Company submitting this Offer does participate in use of Forced Uyghurs Labor as described in A.R.S. § 35-394.
☐	Exempt Contractor. Indicate which of the following statements applies to this Contractor (may be more than one): ☐ Contractor is a sole proprietorship; ☐ Contractor has fewer than ten (10) employees; and/or ☐ Contractor is a non-profit organization.

San Tan Ford

Company Name

1429 E Motorplex Loop

Address

Gilbert

AZ

85142

City

State

Zip



Signature of Person Authorized to Sign

Joe Sanchez

Printed Name

Government Fleet Director

Title

October 30, 2023

Date

REQUEST FOR PROPOSAL

SOLICITATION NUMBER: BPM004157

DESCRIPTION: New Vehicle Purchases

QUESTIONS: Inquiries regarding the solicitation are to be submitted online through the State's e-Procurement system, Arizona Procurement Portal (APP) (<https://app.az.gov/>) using the Discussion Forum tab.

OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.

Thomas Kornell
Procurement Officer
Phone: 602-712-8520
Email: Tkornell@azdot.gov

This solicitation is issued in accordance with A.R.S. §41-2534 and A.A.C. R2-7-C301 et seq., Competitive Sealed Proposals.

"An Equal Opportunity Agency"

The Arizona Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Americans with Disabilities Act (ADA), hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration for an award.

Persons that require a reasonable accommodation based on language or disability should contact ADOT's Procurement Office by phone (602) 712-2089. Requests should be made as early as possible to ensure the State has an opportunity to address the accommodation.

Las personas que requieran asistencia (dentro de lo razonable) ya sea por el idioma o discapacidad deben ponerse en contacto con ADOT (602) 712-2089.

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1. Statement of Need

- 1.1. Pursuant to the Arizona Procurement Code, A.R.S. §41-2501 et seq., the State of Arizona Department of Transportation (Department), has a requirement for New Vehicle Purchase.

2. Introduction and Background

2.1 The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures.

2.2 Background: The State and its Eligible Agencies currently spend an estimated twenty-one million dollars in the purchase of new vehicles annually.

2.3 The following are the Three Categories covered in this Scope of Work:

- **Category One: Phase One (1) Vehicle Purchases**
- **Category Two: Phase Two (2) Vehicle Purchases**
- **Category Three: FTA Funded Vehicles**

3 General Requirements

- 3.1 Vehicles shall be new and supplied with all equipment and accessories indicated as standard equipment in the manufacturer's published literature (or website). Optional equipment necessary to meet the minimum requirements shall be included.
- 3.2 All vehicles ordered through Phase 1 (off the line) shall be Manufacturer's current year models in production throughout the term of this contract and shall be serviced completely by the vendor before delivery and ready in all respects for use. For the initial contract period; vehicles shall be new model year 2022 or greater.
- 3.3 Vehicles ordered through Phase 2 (on the lot) shall have less than 100 original odometer miles and be new (have never been previously owned) unless pre-approved in writing by the Eligible Agency.
- 3.4 All vehicles shall meet requirements of applicable Arizona Motor Vehicle laws and all other applicable Federal Motor Vehicle Safety Standards (including the Federal Bridge Formula), whether or not such requirements are specified in detail.
- 3.5 For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation.

SCOPE OF WORK

- 3.6 Delivery location shall be identified on the issuing agency purchase order. Deliveries shall be made within 120 days of receipt of purchase orders, unless factory delays make this impossible. Dealer shall notify the ordering agency of such delays along with a revised delivery estimate from the factory immediately after it becomes known. If the manufacturer has a website available to check order status, this information will be shown in space provided on Offer Response Form.
- 3.7 All deliveries shall be made Monday through Friday from 8:00 A.M. to 2:00 P.M. The Contractor shall be required to give the using agency a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and number of units to be delivered.
- 3.8 All vehicles shall be delivered with four (4) entrance tools and a full tank(s) of fuel, less delivery fuel.
- 3.9 The following documents shall be provided upon delivery of the vehicle(s):
- 3.9.1 M.S.O. (Manufacturer Statement of Origin) that includes the odometer statement
 - 3.9.2 Warranty Document
 - 3.9.3 Manufacturers unaltered invoice
 - 3.9.4 Delayed warranty / in service start request form (if requested by ordering entity)
 - 3.9.5 Level 1 Inspection if applicable, completed before delivery
- 3.10 For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract.

4 Specific Requirements

- 4.1 The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency.
- 4.2 As new model year vehicles become available, vendor shall submit pricing at either the same rate as the previous model, or submit a request for an increase or decrease based only on the manufacturer's increase or decrease. Documentation must be submitted to the Procurement Officer within 30 days of the effective date of change. New model year vehicles cannot be offered without approval from the Procurement Officer.
- 4.3 The following fuel types are allowable under this contract are to include but are not limited too.
- 4.3.1 Flexible Fuel Vehicles (FFV) also called Ethanol or E85
 - 4.3.2 Diesel

4.3.3 Gasoline

4.3.4 Compressed Natural Gas (CNG): CNG systems must be O.E.M. or O.E.M. approved

4.3.5 Hybrid-Electric Vehicles (HEV)

4.3.6 Plug-in Hybrid Electric Vehicles (PHEV)

4.3.7 Electric Vehicles (EV) also called Battery Electric Vehicles (BEV)

4.3.8 Fuel Cell Vehicles (FCV)

4.4 Vehicle Up-fit / Modifications

4.4.1 The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency.

4.4.2 The Eligible Agency will supply all up-fit/modification requests to the Contractor. The Contractor shall identify any conditions that apply to the up-fit/modification on a quotation to the Eligible Agency for review before any work commences.

4.5 Minimum Vehicle Requirements: All prices shall include the following equipment:

4.5.1 All standard factory equipment

4.5.2 Automatic transmission [maximum towing/payload capacity shall be provided upon request]

4.5.3 Bluetooth capabilities

4.5.4 AM/FM radio

4.5.5 Cruise Control

4.5.6 Power Door Locks/Power Windows

4.5.7 Power Mirrors when available

4.5.8 Four (4) entrance tools (in any combination allowed; keyless entry remotes, integrated or smart keys, standard cut keys) per vehicle.

a. Type of keys to be provided shall be indicated on quote.

4.5.9 Air conditioning

a. Rear air conditioning on all vehicles, when available

4.5.10 Cloth seats

4.5.11 Rear view mirrors including on driver and passenger doors

a. FOR TRUCKS: Rear view mirrors on driver front and passenger front doors, largest available without upgrading vehicle options package.

b. Back up Camera

4.5.12 Spare tire

a. Full size standard steel wheel with matching Original Equipment Manufacturer spare tire identical to standard equipment with the trim level of the delivered vehicle.

b. If full spare is not available due to space or manufacturer standards, an alternative shall be provided and noted on quote provided.

4.5.13 Floor Mats

a. O.E.M. floor mat sets installed in all seating rows where the vehicle comes with carpeted floors.

b. Fixed driver floor mat

4.5.14 Arizona legal tinted glass

4.5.15 Minimum of 2 USB charging Ports

4.6 Specific Requirements for Trucks (when available)

4.6.1 Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW.

4.6.2 Skid plate package and anti-slip differential for four-wheel drive vehicles

4.6.3 Front tow hooks

5 Contractor's Responsibilities

Contractor shall be responsible for processing the registration, licensing, title and plating of all new vehicles ordered only if requested by the Eligible Agency.

6 Department's Responsibilities

The Eligible Agencies will provide final acceptance and approval of any equipment and services delivered

1. CONTRACT TERM

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

2. CONTRACT EXTENSION

By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months.

3. ELIGIBLE AGENCIES

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

4. NON-EXCLUSIVE CONTRACT

This contract shall be for the sole convenience of the Department. The Department reserves the right to obtain like goods or services from another source when necessary. The Off-Contract Purchase Authorization and subsequent procurement shall be consistent with the Arizona Procurement Code.

5. ORDERING PROCESS

The Department shall issue a purchase order to the Contractor. Each purchase order must cite the contract number. This purchase order shall be the only document required for the Department to order and the Contractor to deliver the material and/or service.

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

6. SHIPPING TERMS

Delivery shall be F.O.B. Destination to the location designated herein. Contractor shall retain title and control of all goods until they are delivered. All risk of transportation and related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The Department will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection.

7. DELIVERY

Contract prices shown for each vehicle include delivery cost within a sixty (60) mile radius of Phoenix. For the purpose of this contract, the address used for mapping the radius within Phoenix will be as follows:

Equipment services shop/ADOT
2225 S 22nd Ave, Phoenix, AZ 85009

Delivery costs for each county outside of the Phoenix area shall be indicated on Offer Response form.

This will be an added cost to the contract price.

Deliveries shall be completed in accordance with the requirements of the contract.

Delivery of the product does not constitute acceptance.

8. INSPECTION AND ACCEPTANCE

Each item delivered shall be subject to a complete inspection by the Department within 10 days after delivery. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.

If the delivered product is not accepted and returned for corrective action, an additional fifteen (15) calendar days shall be allowed for inspection of the corrected or replacement product.

The Contractor shall be responsible for the transport of the material to and from the Department for the correction of items or workmanship not in compliance with the specifications.

Product returned for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted.

9. INVOICING and PAYMENT

Contractor shall submit all billing notices or invoices to the Eligible Agency or Co-Op Buyer at the address Indicated on the applicable Order document.

Separate invoices are required for each shipment of product or delivery of service and shall include at a minimum:

- Department Location's Name and Address
- Vendor Name, Remit to Address and Contact Information
- Contract Number
- Purchase Order Number
- Invoice Number and Date
- Date the items were shipped to the Department
- Applicable payment terms
- Contract Line Item Number
- Line Item Description or Item or Service
- Quantity Purchased

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- Line Item Unit of Measure
- Price per Unit and Total per Unit
- Catalog or Other Discount (if applicable)
- Net Unit Price and Total per Unit (if applicable)
- Applicable taxes (as a separate invoice line item)
- Applicable Shipping/Freight Charges etc. (as a separate invoice line item) Materials only.
- Total Invoice Amount Due

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the Department or the State for late or finance charges.

The Department will make every effort to process payment for the purchase of product within thirty (30) calendar days after the Department has conducted the necessary reviews, inspections and acceptance as described herein.

The department acceptance date will be the valid date for starting the thirty (30) calendar day payment period.

Payment due dates, including discount periods, will be computed from the date of acceptance or date of correct invoice (whichever is later) to the date the Department's warrant is mailed.

10. ESTIMATED USAGE

The Department anticipates considerable usage under this contract. The Department reserves the right to increase or decrease actual quantities ordered as circumstances may require. No guarantees are made concerning actual purchases under this contract.

11. PRICING

- 1 Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.
 - a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.
 - b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
 - c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
 - d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
 - e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.
 - f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.

- g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order.

2 CONTRACTOR'S BEST PRICING: Supplier warrants that, for the term of the Contract, the prices and discounts set out in the Pricing Documents, 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 items of equipment and materials.

2.1 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.

2.2 If Contractor's Best Pricing for equivalent 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.

2.3 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 Supplier agrees to charge at less than the Contract Pricing until the extended 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.

3 PRICING-ALL-INCLUSIVE: 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.

4 LARGE VOLUME DISCOUNT PRICING: An Eligible Agency may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible Agency for large volume purchases.

5 A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice through a written contract amendment.

12. PRICE INCREASE

The Department will review **fully documented** requests for price increases for any contract which will or has been in effect for twelve (12) months. The request shall be submitted no less than 60 days prior to the contract renewal date. The Contractor shall provide fully documented information which supports the price increase request. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be

clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment request prior to the time of contract extension will be a factor in the extension review process. The Department will determine whether the requested price increase or an alternate option, is in the best interest of the State. All pricing should reflect the minimum percentage of MSRP.

13. SAFETY STANDARDS

Items supplied under this contract shall comply with all current applicable safety standards and regulations including the Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards.

14. WARRANTY

The Contractor warrants:

1. That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.
2. At a minimum all equipment supplied under these specifications shall be fully warranted by the vehicle manufacturer against mechanical and electrical defects for a minimum period of thirty-six (36) months from the date vehicle is placed in service.
3. This warranty shall cover such items as actual repair labor, parts, and shipping charges to and from the nearest service facility or other designated repair depot.
4. Any defects of design, workmanship or material, shall be fully corrected by the vendor without cost to the state agency or political subdivision.
5. The written warranty shall be included with the delivered vehicles to the Eligible Agency. The warranty terms shall be stated on Attachment 3-A, where indicated. Failure to provide this general information may result in the offer being rejected.
6. Hybrid / Electric Vehicle Warranty: Hybrid-related components including catalytic convertor, electronic control unit, onboard emissions diagnostic device, high voltage battery, transmission, DC/DC convertor for hybrid vehicles shall be covered for 8 years/100,000 miles, battery for electric vehicles shall be 8/years/100,000 miles and bidder shall indicate limitation of warranty due to voltage and amps. The warranty terms shall be stated where indicated on Attachment 3-A. Failure to provide this general information may result in the bid being rejected.

15. CURRENT PRODUCTS

All products supplied under this contract shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in the contract.

16. PRODUCT DISCONTINUANCE

In the event that a product or model is discontinued by the manufacturer, the Department at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request authorization to substitute a new product or model and provide the following:

1. A formal announcement from the manufacturer that the product or model has been discontinued.
2. Documentation from the manufacturer that names the replacement product or model.
3. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation.
4. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.
5. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.

17. CONTRACT ADMINISTRATION

The Contractor shall contact the assigned Procurement Officer for guidance or direction in matters of contract interpretation or questions regarding the terms, conditions or scope of the contract.

18. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called "Notices"), shall be in writing and shall be sent by certified United States mail, return receipt requested, or by any other method that provides evidence of receipt, addressed to the party or parties to receive such notice as follows:

A. If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1739 W. Jackson Street, MD 100P
Phoenix, Arizona 85007-3276

B. If intended for the Contractor, to the address as identified in the Contractor's electronic vendor profile. Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Transportation, Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

19. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

This contract may be cancelled if Contractor or any subcontractors or others in the employ or under the supervision of the Contractor or subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property.

Further, if the Contractor or any subcontractors or others in the employ or under the supervision of the Contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. § 13-1502, "Criminal trespass in the third degree; classification."

20. INDEMNIFICATION CLAUSE

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 judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

21. INSURANCE REQUIREMENTS

21.1 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.

21.2 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.

21.3 Minimum Scope and Limits of Insurance Contractor shall provide coverage with limits of liability not less than those stated below.

21.3.1 Commercial General Liability (CGL) – Occurrence Form

The Contractor shall furnish Certificate(s) of Insurance inclusive of the following requirements to the Department. Certificate(s) shall be received within 10 calendar days of notification of contract award by the Procurement Officer.

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

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, 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.

21.3.2 Business Automobile Liability

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

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

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving

automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement 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.

21.3.3 Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory
- Employers' Liability
 - o Each Accident \$1,000,000
 - o Disease – Each Employee \$1,000,000
 - o Disease – Policy Limit \$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, 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 each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

21.4 Additional Insurance Requirements The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

21.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary 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).

21.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

21.5 Notice of Cancellation Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

21.6 Acceptability of Insurers Contractor's 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

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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.

21.7 Verification of Coverage Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

21.7.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

21.7.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

21.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

21.8 Subcontractors Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

21.9 Approval and Modifications the Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

21.10 Exceptions In the event the Contractor or subcontractor(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 subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

22. USAGE REPORT

The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. 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>

23. CONTRACT ORDER OF PRECEDENCE

In the event of a conflict in the provisions of the Contract, as accepted by the Department and as they may be amended, the following shall prevail in the order set forth below:

- Federal Provisions
- Special Terms and Conditions
- Uniform Terms and Conditions
- Statement or Scope of Work
- Specifications
- Attachments
- Exhibits
- Special Instructions to Offerors
- Uniform Instructions to Offerors
- Other documents referenced or included in the Solicitation

24. LICENSES, PERMITS, CERTIFICATIONS

Contractor, at their expense, shall maintain in current status without any violations, complaints, or suspensions during the term of this contract all Federal, State and Local licenses, permits and certifications required for the operation of a business conducted by the Contractor.

25. CO-OP USAGE

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/contractor-resources/statewide-contracts-administrative-fee>

Contractor shall sell to Co-Op Buyers at the same price, and with the same lead times and other terms and conditions under which it sells to Eligible Agencies. With the sole exception of any legitimate 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).

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.

26. POST AWARD MEETING

At the discretion of the Department, the Contractor, at their expense, shall attend and participate in post award meetings as scheduled by the Procurement Officer.

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. *"Contractor"* means any person who has a Contract with the State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona

Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
- Federal Provisions
 - Special Terms and Conditions
 - Uniform Terms and Conditions
 - Statement or Scope of Work
 - Specifications
 - Attachments
 - Exhibits
 - Special Instructions to Offerors
 - Uniform Instructions to Offerors
 - Other documents referenced or included in the Solicitation
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the

State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11 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.

4. Costs and Payments

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Applicable Taxes.
- 4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if

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applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

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

6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

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- 6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- 6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

- 7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
- 7.2.1. Of a quality to pass without objection in the trade under the Contract description;
- 7.2.2. Fit for the intended purposes for which the materials are used;
- 7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4. Adequately contained, packaged and marked as the Contract may require; and
- 7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance With Applicable Laws. The materials and services supplied under this

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Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. **State's Contractual Remedies**

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the

materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The

Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The following provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220 available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance> are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

The Federal Terms and Conditions under this Contract shall be incorporated in any sub-contractor, or lower-tier agreement for any federally-funded task assignment / project awarded under this Contract.

2. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Department and Contractor acknowledge and agree that, notwithstanding any concurrence b the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Department, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by Federal Funding Agency. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project.

Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) (5323(l)) on the Contractor, to the extent the Federal Government deems appropriate.

Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor shall - provide the Purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also , pursuant to 49 C. F. R. 633.15, provide authorized FTA representative including any PMO Contractor access to Contractor's records and construction sites pertaining to a capital project, defined at 49 U.S.C. 5302(a)1, which is receiving assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.15, Contractor shall provide the Purchaser, authorized FTA representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which receives FTA assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.00.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non- profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor shall provide the Purchaser, FTA, the US Comptroller General or their authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor shall retain, and shall require its subcontractors at all tiers, all books, records, accounts and reports required under this contract for a period of not less than five years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

5. TERMS OF THE MASTER AGREEMENT AND COMPLIANCE

Contractor shall at all times comply with all applicable Federal Funding Agency laws, regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, available at <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>, between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. This Master Agreement does not have an Expiration Date. This Master Agreement continues to apply to the Recipient and its Underlying Agreement, until modified or superseded by a more recently enacted or issued applicable federal law, regulation, requirement, or guidance, or amendment to this Master Agreement or the Underlying Agreement. To assure compliance the Recipient must take measures to assure that other participants in its Underlying Agreements (e.g., Third Party Participants) comply. Contractor's failure to so comply shall constitute a material breach of this contract.

All contractual provisions required by the U.S. Department of Transportation are hereby incorporated by reference. In the event of additional funding provided by FHWA, the applicable requirements of the Stewardship Agreement, available at <https://www.fhwa.dot.gov/federalaid/stewardship>, between the Department and FHWA are incorporated by reference.

6. CIVIL RIGHTS REQUIREMENTS

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply

with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

Equal Employment Opportunity

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex(including sexual orientation and gender identity), age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements Federal Funding Agency may issue.
2. Race, Color, religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.
3. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

4. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided, modified only if necessary to identify the affected parties.

7. TERMINATION

Termination of the contract shall be in accordance with the Uniform Terms and Conditions, Section 9., paragraph 9.1 through 9.6.

8. DEBARMENT OR SUSPENSION

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Department, the

Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

8.1 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

The Contractor agrees to the following:

- (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:
 - (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,
 - (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and
 - (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:
 - (1) Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and

If the Department suspends, debars, or takes any similar action against a Third Party Participant or individual, the Department will provide immediate written notice to the:

- (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project,
- (b) FTA Project Manager if the Project is

- administered by an FTA Headquarters Office,
or
(c) FTA Chief Counsel.

9. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER**POLLUTION CONTROL ACT Clean Water**

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

Clean Air

- 1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- 2) Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

10. BUY AMERICA

In any task assignment / project for construction, acquisition of goods, or rolling stock valued at more than \$150,000, the contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 65% domestic content for FY2019 and a minimum 70% domestic content for FY2020 and beyond. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed a certification shall be rejected as

nonresponsive. This requirement does not apply to lower tier subcontractors.

11. BREACHES AND DISPUTE RESOLUTION

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the Department. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the Department. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Department shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Department and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Department or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

12. LOBBYING

The Contractor agrees to comply with the provisions of Title 31, U.S. C 1352 as

amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. 1601, et seq.] and (Public Law 101.121) as codified in Title 48, Federal Acquisition Regulations Subpart 3.8 and Subpart 52.203-11. The legislation prohibits Federal funds from being expended by a recipient or any lower tier sub- recipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the award of any Federal contract, the making of any Federal grant or loan, or entering into any cooperative agreement, including the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. All disclosure statements are to be furnished to the Department.

Contractors who apply or propose/bid for an award of \$100,000 or more in value shall file the attached Lobbying Certification {01Lobbying Certification document} required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government- financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

14. ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

15. CONFLICTS OF INTEREST / EMPLOYMENT OF FEDERAL PERSONNEL

Contractors will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the Department or the Federal funding agency shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: The employee, officer or agent, any member of his immediate family, His or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. Department officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

16. COPYRIGHT AND PATENT

To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless ADOT against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of this contract performance or use by ADOT of materials furnished or work performed under this contract. ADOT shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

Copyrights pursuant to 23 CFR 420.121 (b): The Department, as a State DOT may copyright any books, publications, or other copyrightable materials developed in the course of the project, and does herein exercise that right. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

Patents pursuant to 23 CFR 420.121 (i): The Department, as a State DOT is subject to the provisions of 37 CFR part 401 governing patents and inventions and must include or cite the standard patent rights clause at 37 CFR 401.14, except for §401.14(g), in all subgrants or contracts. In addition, State DOTs must include the following clause, suitably modified to identify the parties, in all subgrants or contracts, regardless of tier, for experimental, developmental or research work: "The subgrantee or contractor will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subgrant or contract, obtain rights in the subgrantee's or contractor's subject inventions."

Standard Patent Rights required pursuant to 37 CFR 401.14:

(a) Definitions

(1) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C.

2321 et seq.).

(2) Subject invention means any invention of the contractor conceived or first actually reduced to practice in the performance of work under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(3) Practical Application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) Small Business Firm means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) Nonprofit Organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(7) The term statutory period means the one-year period before the effective filing date of a claimed invention during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

(8) The term contractor means any person, small business firm or nonprofit organization, or, as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

(b) Allocation of Principal Rights

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention

throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Contractor

(1) The contractor will disclose each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor.

(2) The contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. If the contractor files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. The contractor will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) For any subject invention with Federal agency and contractor co-inventors, where the Federal agency employing such co-inventor determines that it would be in the interest of the government, pursuant to 35 U.S.C. 207(a)(3), to file an initial patent application on the subject invention, the Federal agency employing such co-inventor, at its discretion and in consultation with the contractor, may file such application at its own expense, provided that the contractor retains the ability to elect title pursuant to 35 U.S.C. 202(a).

(5) Requests for extension of the time for disclosure, election, and filing under

paragraphs (1), (2), and (3) of this clause may, at the discretion of the Federal agency, be granted. When a contractor has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the Federal agency notifies the contractor within 60 days of receiving the request.

(d) Conditions When the Government May Obtain Title

The contractor will convey to the Federal agency, upon written request, title to any subject invention—

(1) If the contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(2) In those countries in which the contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the contractor shall continue to retain title in that country.

(3) In any country in which the contractor decides not to continue the prosecution of any non-provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Contractor and Protection of the Contractor Right to File

(1) The contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the contractor fails to disclose the invention within the times specified in (c), above. The contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the contractor is a party and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the successor of that party of the contractor's business to which the invention pertains.

(2) The contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the contractor, its licensees, or the domestic

subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Contractor Action to Protect the Government's Interest

(1) The contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph (c) of this clause, to assign to the contractor the entire right, title and interest in and to each subject invention made under contract, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) For each subject invention, the contractor will, no less than 60 days prior to the expiration of the statutory deadline, notify the Federal agency of any decision: Not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a

post-issuance submission, and supplemental examination.

(4) The contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the contract) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts

(1) The contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a subcontractor.. The subcontractor will retain all rights provided for the contractor in this clause, and the contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the agency may reasonably specify. The contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the contractor.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the contractor agrees that neither

it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

- (1) Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Contracts with Nonprofit Organizations

If the contractor is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the contractor;

(2) The contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the contractor agrees that the Federal agency may review the contractor's licensing program and decisions regarding small business applicants, and the contractor will negotiate changes to its licensing policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the contractor could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4). In accordance with 37 CFR 401.7, the Federal agency or the contractor may request that the Secretary review the contractor's licensing program and decisions regarding small business applicants.

17. RECOVERED MATERIALS

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

18. SAFE OPERATION OF MOTOR VEHICLES

a. Seat Belt Use. The Recipient agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

(1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles, and

(2) Including a “Seat Belt Use” provision in each third party agreement related to the Award.

b. Distracted Driving, Including Text Messaging While Driving. The Recipient agrees to comply with:

(1) Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225),

(2) U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009, and

(3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

(a) Safety. The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award,

(b) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving, and

(c) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34.b(3)(a) – (b) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

19. CERTIFICATION AND ASSURANCES

The FTA Certifications and Assurances are incorporated herein by reference. Upon award or contract renewal, the Contractor must agree to comply with the most current FTA Certifications and Assurances by signing and submitting the signature page provided by the Department. In the event FTA issues new Certifications and Assurances, the Department reserves the right to require submission of a new signature page agreeing to comply; to be added to the terms and conditions by Amendment. All such requests are a condition of continued award.

20. DISADVANTAGED BUSINESS ENTERPRISES

1.0 Policy:

The Arizona Department of Transportation (hereinafter the Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Department has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Department to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Department:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program; and
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.

It is also the policy of the Department to facilitate and encourage participation of Small Business Concerns (SBCs), as defined herein, in USDOT-assisted contracts. The Department encourages contractors to take reasonable steps to eliminate obstacles to SBCs' participation and to utilize SBCs in performing contracts.

2.0 Assurances of Non-Discrimination:

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Department deems appropriate, which may include, but are not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;

3. Liquidated damages;
4. Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding; and/or
5. Cancellation, termination, or suspension of the Contract, in whole or in part.

The contractor, subrecipient, or subcontractor shall ensure that all subcontract agreements contain this non-discrimination assurance.

3.0 Definitions:

(A) Commercially Useful Function (CUF): Commercially Useful Function is defined fully in 49 CFR 26.55, which definition is incorporated herein by reference.

(B) Disadvantaged Business Enterprise (DBE): a for-profit small business concern which meets both of the following requirements:

(1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(C) NAICS Code: The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

(D) Non-DBE: any firm that is not a DBE.

(E) Race-Conscious (RC): a measure or program focused specifically on assisting only DBEs, including women-owned DBEs.

(F) Race-Neutral (RN): a measure or program used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

(G) Small Business Concern (SBC): a business that meets all of the following conditions:

(1) Operates as a for-profit business registered to do business in Arizona;

(2) Operates a place of business primarily within the U.S., or makes a significant contribution to the U.S. economy through payment of taxes

or use of American products, materials, or labor;

- (3) Is independently owned and operated;
- (4) Is not dominant in its field on a national basis; and
- (5) Does not have annual gross receipts that exceed the Small Business Administration size standards average annual income criteria for its primary North American Industry Classification System (NAICS) code.

(H) Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are enrolled members of federally or State recognized Indian tribe, Alaskan Natives or Native Hawaiians;
 - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - (vi) "Women;"
 - (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business

Administration (SBA), at such time as the SBA designation becomes effective.

4.0 Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction. All proposers should contact the Department's Business Engagement and Compliance Office (BECO) by phone, through email, or at the address shown below, for assistance in their efforts to use DBEs in the highway construction industry. BECO contact information is as follows:

Arizona Department of
Transportation Business
Engagement and Compliance
Office 1801 W. Jefferson St.,
Ste. 101, Mail Drop 154A
Phoenix, AZ 85007
Phone (602) 712-7761
FAX (602) 712-8429
Email: contractorcompliance@azdot.gov Website: www.azdot.gov/bec

4.01 Mentor-Protégé Program:

The Department has established a Mentor- Protégé program as an initiative to encourage and develop disadvantaged businesses in the highway construction industry. The program encourages prime contractors to provide certain types of assistance to certified DBE subcontractors. ADOT encourages contractors and certified DBE subcontractors to engage in a Mentor-Protégé agreement under certain conditions. Such an agreement must be mutually beneficial to both parties and to ADOT in fulfilling requirements of 49 CFR Part 23. For guidance regarding this program refer to the Mentor-Protégé Program Guidelines available on the BECO website.

The Mentor-Protégé program is intended to increase legitimate DBE activities. The program does not diminish the DBE rules or regulations, and participants may not circumvent these rules.

5.0 Applicability:

The Department has established an overall annual goal for DBE participation on Federal aid contracts. The Department intends for the goal to be met with a combination of race conscious efforts and race neutral efforts. Race conscious participation occurs when the contractor uses a percentage of DBEs, as defined herein, to meet the contract specified goal. Race neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race neutral as when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract

on a prime contract that does not carry a DBE contract goal.

Prime contractors are encouraged to obtain DBE participation even if a DBE goal was not established on a contract.

The DBE provisions are applicable to all contractors including DBE contractors.

6.0 Certification and Registration:

6.1 DBE Certification:

Certification as a DBE shall be predicated on:

- (1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".
- (2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.
- (3) The submission of any additional information which the Department or the applicable Arizona Unified Certification (UCP) agency may require to determine the firm's eligibility to participate in the DBE program.
- (4) The information obtained during the on-site visits to the offices of the firm and to active job-sites.

Applications for certification may be filed online with the Department or the applicable UCP agency at any time through the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) website at <http://www.azutracs.com>.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

ADOT is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at <http://www.azutracs.com/>. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification of a DBE is not a representation of qualifications and/or abilities nor does it mean that a DBE firm is guaranteed or entitled to receive or be awarded a contract. Being certified simply means that a firm has met the criteria for

DBE certification as outlined in 49 CFR Part 26. The contractor bears all risks of ensuring that DBE firms selected by the contractor are able to perform the work.

6.2 SBC Registration:

To comply with 49 CFR Part 26.39, ADOT's DBE Program incorporates contracting requirements to facilitate participation by Small Business Concerns (SBCs) in federally assisted contracts. SBCs are for-profit businesses authorized to do businesses in Arizona that meet the Small Business Administration (SBA) size standards for average annual revenue criteria for its primary North American Industry Classification System (NAICS) code.

While the SBC component of the DBE program does not require utilization of goals on projects, ADOT strongly encourages contractors to utilize small businesses that are registered in AZ UTRACS on their contracts, in addition to DBEs meeting the certification requirement. The contractor may use the AZ UTRACS website to search for certified DBEs and registered SBCs that can be used on the contract. However, SBCs that are not DBEs will not be counted toward DBE participation.

SBCs can register online at the AZ UTRACS website.

The Department's registration of SBCs is not a representation of qualifications and/or abilities nor does it mean that an SBC firm is guaranteed or entitled to receive or be awarded a contract. Being SBC registered simply means that a firm has met the criteria for SBC registration as outlined in 49 CFR Part 26. The contractor bears all risks of ensuring that SBC firms selected by the contractor are able to perform the work.

7.0 DBE Financial Institutions:

The Department thoroughly investigates the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its service area and makes reasonable efforts to use these institutions. The Department encourages prime contractors to use such institutions on USDOT assisted contracts. However, use of DBE financial institutions will not be counted toward DBE participation.

The Department encourages prime contractors to research the Federal Reserve Board website at www.federalreserve.gov to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center database.

8.0 Time is of the Essence:

TIME IS OF THE ESSENCE IN RESPECT TO THE DBE PROVISIONS.

9.0 Computation of Time:

In computing any period of time described in this DBE special provision, such as calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal or State holiday. In circumstances where the Department's offices are closed for all or part of the last day, the period extends to the next day on which the Department's offices are open.

10.0 Contractor and Subcontractor Requirements:

10.1 General:

Each contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

10.2 DBE Liaison:

The contractor shall designate a DBE Liaison responsible for the administration of the contractor's DBE program. The name of the designated DBE Liaison shall be included in the DBE Intended Participation Affidavit Summary.

11.0 DBE Goals

The Department has not established contract goals for DBE participation in this contract.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The contractor is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

11.1 Race Neutral Contract (With No DBE Goal)

The Department has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. ADOT has received federal financial assistance from the USDOT and as a condition of receiving this assistance, ADOT has signed an assurance that it shall comply with 49 CFR Part 26.

It is ADOT's policy to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in federally-funded contracts.

NO CONTRACT DBE GOAL HAS BEEN ESTABLISHED FOR DBE PARTICIPATION ON THIS CONTRACT.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The consultant is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

12.0 Bidders/Proposers List and AZ UTRACS Registration Requirement:

Under Title 49 CFR of the Code of Federal Regulations, Part 26.11, DOTs are required to collect certain information from all contractors and subcontractors who seek to work on federally-assisted contracts in order to set overall and contract DBE goals. ADOT collects this information when firms register their companies on the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) web portal at <http://www.azutracs.com/> a centralized database for companies that seek to do business with ADOT. This information will be maintained as confidential to the extent allowed by federal and state law.

Prime contractors and all subcontractors, including DBEs listed in the offer must be registered in AZUTRACS. Proposers may verify that their firm and each subcontractor is registered using the AZUTRACS website.

Proposers may obtain additional information at the AZ UTRACS website or by contacting BECO.

All proposers shall create a Bidders/Proposers list in the AZ UTRACS by selecting all firms, service providers, and vendors that expressed interest or submitted proposals or quotes for this contract. The Bidders/Proposers List form must be complete and must include the names for all subcontractors, service providers, and vendors that submitted proposals or quotes on this project regardless of the proposer's intentions to use the those firms on the project.

All proposers must complete and submit the Bidders/Proposers List online at AZ UTRACS prior to Offer submittal. A confirmation email will be generated by the system. This email confirmation shall be submitted with the Offer.

13.0 Payment Reporting:

The contractor shall report on a monthly basis indicating the amounts paid to all subcontractors, of all tiers, working on the project. Reporting shall be in accordance with below.

Subcontracts:

- a. Sub-Contract Terms:

1. The Contractor agrees to execute a written Contract with all Subcontractors for work to be completed under this Contract. The executed Contract shall include Subcontractor's Scope of Work and all the Uniform Terms and Conditions set forth in this Contract.
2. The Contractor shall provide electronic copies of signed subcontract agreements with all Subcontractors to ADOT Business Engagement and Compliance Office (BECO) by uploading them to the BECO's online DBE Contract & Labor Compliance Management System (**DBE System**) at <https://adot.dbesystem.com>. Subcontract agreements shall include all required assurances and required clauses as outlined in this Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.
3. The Contractor may be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department.

b. Sub-Contract Payments

1. Retention: If the prime contract does not provide for retention, the contractor and each subcontractor of any tier shall not withhold retention on any subcontract. If the prime contract provides for retention, the prime contractor and each subcontractor of any tier shall not retain a higher percentage than the Department may retain under the prime contract. Retainage shall be paid to the subcontractor within 7 days of satisfactory completion of the work performed by the subcontractor.
2. No Set-offs Arising from Other Contracts: If a subcontractor is performing work on multiple contracts for the same contractor or subcontractor of any tier, the contractor or subcontractor of any tier shall not withhold or reduce payment from its subcontractors on the contract because of disputes or claims on another contract.
3. Partial Payment: The contractor and each subcontractor of any tier shall make prompt partial payments to its subcontractors within seven days of receipt of payment from the Department. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.
4. Final Payment: The contractor and each subcontractor of any tier shall make prompt final payment to each of its subcontractors. The contractor and each subcontractor of any tier shall pay all monies, including retention, due to its subcontractor within seven days of receipt of payment. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.
5. Payment Reporting: For the purposes of this subsection "Reportable Contracts" means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any

tier with a DBE material or service supplier.

The requirements of this subsection apply to all Reportable Contracts.

Payment Reporting for all Reportable Contracts shall be done through the Department's web-based DBE System. The DBE System can be accessed from the Department's BECO website. No later than fifteen calendar days after the Notice to Proceed is issued, the contractor shall log into the Department's web-based DBE System and enter or verify the name, contact information, and subcontract amounts for Reportable Contracts on the project. As Reportable Contracts are approved over the course of the contract, the contractor shall enter them in the system. Reportable contracts shall be entered into the system no later than five calendar days after approval by the Department.

The contractor shall report on a monthly basis indicating the amounts actually paid and the dates of each payment under any Reportable Contract on the project. In addition, the contractor shall require that all participants in any Reportable Contract electronically verify receipt of payment on the contract by the last day of the month and the contractor shall actively monitor the Department's DBE System to ensure that the verifications are input. The contractor shall proactively work to resolve any payment discrepancies in the DBE System between payment amounts it reports and payment confirmation amounts reported by others.

The contractor shall ensure that all Reportable Contract activity is reported to the Department. This includes all lower-tier Reportable Contracts, regardless of whether a DBE is involved or not.

The contractor shall maintain records for each payment explaining the amount requested by the subcontractor, and the amount actually paid pursuant to the request, which may include but are not limited to, estimates, invoices, pay requests, copies of checks or wire transfers, and lien waivers in support of the monthly payments in the DBE System.

The contractor shall provide information for payments made on all Reportable Contracts during the previous month by the 15th day of the current month. In the event that no payments were made during a given month, the contractor shall identify that by entering a dollar value of zero. If the contractor does not pay the full amount of any invoice from a subcontractor, the contractor shall note that and provide the reasons in the comment section of the Monthly Payment Audit of the DBE System.

For each Reportable Contract on which the contractor fails to submit timely payment information the Department will retain \$1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to \$2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages

shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

Payment reporting requirements apply to all contracts, federal and non-federal funded.

The contractor shall ensure that a copy of this Subsection is included in every Reportable Contract of every tier.

(a) Sanctions for Inadequate Reporting:

For each Reportable Contract on which the contractor fails to submit timely and complete payment information the Department will retain \$1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to \$2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

6. Completion of Work: A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted by the Department.
7. Disputes: If disputes arise regarding payment of subcontractors, the contractor shall immediately provide the ADOT Project Manager with a written, verifiable explanation if:
 - The contractor does not pay the full amount of any invoice from a subcontractor within seven days of receipt of a progress payment from the Department, or
 - The monthly estimate does not include all work claimed by a subcontractor to have been performed.

The Department will determine whether the contractor has acted in good faith concerning any such explanations. The Department reserves the right to request and receive documents from the contractor and all subcontractors of any tier, in order to determine whether termination requirements were met. The contractor shall implement and use the dispute resolution process outlined in the subcontract, as described in Uniform Terms and Conditions Paragraph, to resolve payment disputes.

8. Non-Compliance: Failure to make prompt partial payment or prompt final payment including any retention, within the time frames established in this contract, will result in remedies, as the Department deems appropriate, which may include, but are not limited to:
 - Liquidated Damages: These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the

contract.

- (i) The Department will withhold two times the disputed dollar amount not paid to each subcontractor.
 - (ii) If full payment is made within 30 days of the Department's payment to the contractor, the amount withheld by the Department will be released.
 - (iii) If full payment is made after 30 days of the Department's payment to the contractor, the Department will release 75 percent of the funds withheld. The Department will retain 25 percent of the monies withheld as liquidated damages.
- Additional Remedies: If the contractor fails to make prompt payment for three consecutive months, or any four months over the course of one project, or if the contractor fails to make prompt payment on two or more contracts within 24 months, the Department may, in addition, invoke the following remedies:
 - (i) Withhold monthly progress payments until the issue is resolved and full payment has been made to all subcontractors and vendors subject to the requirements outlined under "Liquidated Damages" above,
 - (ii) Terminate the contract for default in accordance with this Contract, and/or
 - (iii) Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding temporarily or permanently, depending on the number and severity of violation.
 - (iv) Reflect the contractor's performance in submitting payment reports and making subcontractor payments utilizing the Department's Vendor Performance Report.

14.0 Crediting DBE Participation:

14.01 General Requirements:

To count toward DBE participation, the DBE firms must be certified at the time of Offer submission in each NAICS code applicable to the kind of work the firm will perform on the contract. NAICS for each DBE can be found on the AZ UTRACS website. General descriptions of all NAICS codes can be found at <http://www.naics.com/search/>.

Credit is given only after the DBE has been paid for the work performed.

The entire amount of a contract that is performed by the DBE's own forces, including the cost of supplies and materials purchased by the DBE for the work on the contract and equipment leased by the DBE will be credited toward DBE participation. Supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate will not be credited toward DBE participation.

The contractor bears the responsibility to determine whether the DBE possesses the

proper contractor's license(s) to perform the work and, if DBE credit is requested, that the DBE subcontractor is certified for the requested type of work.

The Department's certification is not a representation of a DBE's qualifications and/or abilities. The contractor bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime contractor, subcontractor, or as a vendor of materials or supplies. The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

The contractor may credit second-tier subcontracts issued to DBEs by non-DBE subcontractors. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

A prime contractor may credit the entire amount of that portion of a contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE participation.

A prime contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consulting, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

14.02 DBE Prime Contractor:

When a certified DBE firm proposes on a contract/Task Assignment all the work that is performed by the DBE contractor or any other DBE subcontractors and DBE suppliers will count toward DBE participation.

14.03 Effect of Loss of DBE Eligibility:

For On-Call Task Assignment contracts, if a DBE is deemed ineligible (decertified) or suspended by ADOT or one of its UCP Partner Agencies in accordance with 49 CFR 26.87 and 26.88, the DBE may not be count toward DBE participation on a new Task Assignment, but may be considered for the contract/Task Assignment DBE participation if a subcontract or contract modification for the work to be completed on the Task Assignment was executed before the DBE suspension or decertification is effective.

A subcontract or contract modification for work on the task assignment means, any subcontract or agreement for the task assignment, which includes a specific ADOT TRACS/Project Number, defined scope, duration and budget for the work to be completed under the Task Assignment that is duly signed by the contractor/contractor and subcontractor/subcontractor.

When the contractor/contractor intends to use an ineligible DBE firm or ADOT made a commitment to use an ineligible DBE prime contractor/contractor, but a subcontract or Contract Modification for the work to be completed on the Task Assignment has not been executed before a decertification notice is issued to the DBE firm by its certifying agency, the ineligible firm does not count toward DBE participation. When a subcontract or contract modification is executed with the DBE firm for the work to be completed on the Task Assignment before ADOT notified the firm of its ineligibility, the DBE's work on the Task Assignment may continue to be credited toward DBE participation for the firm's work.

14.04 Notifying the Contractor of DBE Certification Status:

Each DBE contract at any tier shall require any DBE subcontractor or supplier that is either decertified or certified during the term of the contract to immediately notify the contractor and all parties to the DBE contract in writing, with the date of decertification or certification. The contractor shall require that this provision be incorporated in any contract of any tier in which a DBE is a participant.

14.05 Commercially Useful Function:

A prime contractor can credit expenditures to a DBE subcontractor only if the DBE performs a Commercially Useful Function (CUF).

A DBE performs a CUF when it is responsible for execution of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself that it uses on the project. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually

performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The Department will determine if the firm is performing a CUF given the type of work involved and normal industry practices.

The Department will notify the contractor, in writing, if it determines that the contractor's DBE subcontractor is not performing a CUF. The contractor will be notified within seven calendar days of the Department's decision.

Decisions on CUF may be appealed to the Chief Procurement Officer (CPO). The appeal must be in writing and personally delivered or sent by certified mail, return receipt requested, to the CPO. The appeal must be received by the CPO no later than seven calendar days after the decision of BECO. BECO's decision remains in place unless and until the CPO reverses or modifies BECO's decision. CPO will promptly consider any appeals under this subsection and notify the contractor of CPO's findings and decisions. Decisions on CUF matters are not administratively appealable to USDOT.

The BECO may conduct project site visits on the contract to confirm that DBEs are performing a CUF. The contractor shall cooperate during the site visits and the BECO's staff will make every effort not to disrupt work on the project.

15.0 Required Provisions for DBE Subcontracts:

All subcontracts of any tier, all supply contracts, and any other contracts in which a DBE is a participant shall include as a physical attachment, DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits.

Contractors executing agreements with subcontractors, DBE or non-DBE, that materially modify federal regulation and state statutes such as, prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such

remedy as the deemed appropriate as outlined in DBE Subsection 2.0 of these DBE provisions.

The Department reserves the right to conduct random reviews of DBE and non-DBE subcontract documentation to ensure compliance with federal requirements.

The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontracts be performed in accordance with 49 CFR Part 26 provisions.

The Contractor shall provide electronic copies of subcontract agreements with all Subcontractors by uploading them within 15 calendar days of an executed contract to the ADOT DBE System. Subcontract agreements shall include all required assurances and clauses as outlined in DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits of the Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.

The Contractor shall be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department

16.0 Certification of Final DBE Payments:

DBE participation on the contract is measured by actual payments made to the DBEs. The contractor shall submit the "Certification of Final DBE Payments" form for each DBE firm working on the contract. This form shall be signed by the contractor and the relevant DBE, and submitted to the Engineer no later than 30 days after the DBE completes its work.

The contractor will not be released from the obligations of the contract until the "Certification of Final DBE Payments" forms are received and deemed acceptable by the Engineer and BECO.

17.0 False, Fraudulent, or Dishonest Conduct:

In addition to any other remedies or actions, the Department will bring to the attention of the US Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take steps such as referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General for possible initiation of suspension and debarment proceedings against the offending parties or application of "Program Fraud and Civil Penalties" rules provided in 49 CFR Part 31.

21. NONDISCRIMINATION

1. During the performance of this Contract, the Consultant, for itself, its Subconsultants, assignees and successors shall:

- a. Not discriminate on the basis of race, color, national origin, or sex and shall carry out applicable requirements of 49 CFR Part 26 in the performance of this Contract. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract, disqualification from proposing on other Contracts or other remedy as the State deems appropriate.
- b. Comply with Executive Order 2009-09, "Prohibition of Discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this Contract.
- c. Comply with the provisions of Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). Said provisions are made applicable by reference and are hereinafter considered a part of this Contract.
- d. Post in conspicuous places available to employees and applicants for employment, the following notice:

"It is the policy of this company not to discriminate against any employee, or applicant for employment, because of race, color, religion, creed, national origin, sex, age, handicapped, or disabled veterans and Vietnam era veterans. Such actions shall include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising; laying-off or termination; rates of pay or other compensation; and selection for training, and on-the- job training. Also, it is the policy to ensure and maintain a working environment free of harassment, intimidation and coercion."

- e. Comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter USDOT), 49 CFR Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- f. Not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or

indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

- g. In all solicitations either by competitive bidding or negotiations made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, notify each potential Subconsultant or supplier of the Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, or national origin.
 - h. Provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State as appropriate, and shall set forth what efforts it has made to obtain the information.
2. In the event of the Consultant's noncompliance with the NONDISCRIMINATION provision (Section A) of this Contract, the State shall impose such Contract sanctions as the State or FHWA may determine to be appropriate, including but not limited to:
 - a. Withholding of payments to the Consultant under the Contract until the Consultant complies,and/or;
 - b. Cancellation, termination, or suspension of the Contract, in whole or in part.
3. The Consultant shall include the provisions of paragraph 1.a. through 1.h. in every subcontract with Subconsultants, DBEs and non-DBEs, including procurement of materials and equipment leases, unless exempt by the Regulations or directives issued pursuant thereto.
4. The Consultant shall take such action with respect to any Subconsultants or procurement as the State or the Federal Aviation Administration (FAA), FHWA and the Federal Transit Administration (FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in or is threatened with litigation with a Subconsultant or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State, and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

22. AFFIRMATIVE ACTION

Contractor shall take the following affirmative action steps with respect to securing supplies, equipment, or services under the terms of this contract:

- a. Include qualified firms owned by socially and economically disadvantaged individuals on solicitation lists.
- b. Assure that firms owned by socially and economically disadvantaged individuals are solicited whenever they are potential sources.
- c. When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum participation by firms owned by socially and economically disadvantaged individuals.
- d. Where the requirement permits, establish delivery schedules which will encourage participation by firms owned by socially and economically disadvantaged individuals.
- e. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, and the Community Services Administration, as required.

23. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed

with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

24. FEDERAL CHANGES

The Contactor and its sub-contractors shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

25. PROMPT PAY

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

26. FULL AND OPEN COMPETITION

In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be

conducted in a manner that provides full and open competition.

27. PROHIBITION AGAINST EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

28. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

29. ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy.

Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

30. NOTIFICATION OF FEDERAL PARTICIPATION

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

31. INTEREST OF MEMBERS OR DELEGATES TO CONGRESS

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

32. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors (<https://www.sam.gov/SAM/>) for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

33. OTHER CONTRACT REQUIREMENTS

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the Department.

34. COMPLIANCE WITH FEDERAL REGULATIONS

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT- required contractual provisions, as set forth in FTA Circular 4220, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

35. REAL PROPERTY

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by Map-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

36. ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP)

Beneficiaries,” 70 Fed. Reg. 74087, December 14, 2005.

37. ENVIRONMENTAL JUSTICE

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42

U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

38. ENVIRONMENTAL PROTECTIONS

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

39. GEORGRAPHIC INFORMATION RELATED TO SPATIAL DATA

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

40. GEOGRAPHIC PREFERENCE

Pursuant to 2 CFR 200.319(b), all procurements must be conducted in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract).

41. ORGANIZATIONAL CONFLICTS OF INTEREST

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows:

- (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:
 - (a) To that Third Party Participant or another Third Party Participant performing the Project work, and
 - (b) That impairs that Third Party Participant's objectivity in performing the Project work, or
- (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,
- (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:
 - (a) Any instances of organizational conflict of interest, or
 - (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and
- (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

42. VETERANS PREFERENCE

As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

43. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) IDENTIFICATION NUMBER

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

44. AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

45. BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency.”

46. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

44. BUS TESTING

The operator of the bust testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus

model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the Agency during the point in the procurement process specified by the Agency, but in all cases before final acceptance of the first bus by the Agency. The complete bus testing report requirements are provide in 49 C.F.R. § 665.11.

45. CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

46. E-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

EXHIBIT 1
Title VI/Non-Discrimination Assurances
Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1. Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the *Federal Highway Administration*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *Federal Highway Administration* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *Federal Highway Administration*, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration* may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient or the *Federal Highway Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that **if** the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT 2
Title VI/Non-Discrimination Assurances
Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 *et. seq.*).



EXHIBIT 3

ADOT Procurement Quarterly Usage Report

This exhibit outlines the content required for the quarterly usage report. Usage reports will be submitted to the appropriate Procurement Officer in accordance with the requirements specified in Special Terms and Conditions. The Department reserves the right to make additions, deletions and changes as deemed necessary.

Reporting Period:

Contract ID/Code:		Contact Name:		Alternate Contact Name:	
Contract Label/Description:		Contact Phone Number:		Alternate Contact Phone Number:	
Contractor:		Contact Email:		Alternate Contact Email:	
Contractor Address:					

[illegible]

EXHIBIT 4
ON-SITE MANUFACTURER INSPECTION
COMPLIANCE CERTIFICATION

(Post-Delivery purchaser's requirement, in compliance with the federal requirements of 49 U.S.C. Section 5323(m))

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 10 vehicles for areas >200,000 in population)

As required by 49 CFR Part 663 Subpart C, the

(Recipient's name)
Certifies that a resident inspector,

(Name of inspector)
Was at

(the manufacturer's)
manufacturing site during the period of manufacture of the buses,

(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 20 vehicles for areas < 200,000 in population)

As required by 49 CFR Part 663 Subpart C, the

(Recipient's name)
Certifies that a resident inspector,

(Name of inspector)
Was at

(the manufacturer's)
manufacturing site during the period of manufacture of the buses,

(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

Signature _____ Date ____/____/____
Title _____

EXHIBIT 5

PRE-AWARD AUDIT AND CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
PRE-AWARD AUDIT (before issuing purchase order)		
Pre-award audit requirements.		Master Agreement;
A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.		49 CFR §663.21
49 CFR 661.13 Grantee Responsibility		
(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with FTA Section 16. Preference for United States Products and Services.		
a. Buy America. Domestic preference procurement requirements of:		49 CFR §663.13
(1) 49 U.S.C. § 5323(j), as amended by FAST Act, and		
(2) FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with FAST Act,		
49 CFR §663.23 Description of pre-award audit. A pre-award audit under this part includes—		
(a) A Buy America certification as described in §663.25 of this part;		49 CFR §663.23
(b) A purchaser's requirements certification as described in §663.27 of this part; and		
(c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in §663.41 or §663.43 of this part.		
Met? Y/N (if NO 1b, 1 REQ'D)	(1) A Buy America certification:	
	a) There is a letter from FTA which grants a waiver OR	
Met? Y/N (if NO 1a, 2 REQ'D)	b) ADOT reviewed documentation provided by the manufacturer which lists—	49 CFR §663.25
	1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and	
	2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.	
Met? Y/N (2 REQ'D)	(2) A purchaser's requirements certification:	
	a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and	49 CFR §663.27
	b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's	
Met? Y/N (1 REQ'D)	(3) A manufacturer's Federal Motor Vehicle Safety certification or Certification that Federal motor vehicle standards do not apply.	
	a) If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	49 CFR §663.41
	a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer.	49 CFR §663.43

**EXHIBIT 6
PURCHASER'S PRE-AWARD REQUIREMENTS
CERTIFICATION**

Subrecipient		
Description		
Program/Phase/Amount s		
Purchaser's Pre-Award Requirements Certification 49 CFR §663.27		
I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and		
I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's		
	Signature	
	Date Signed	

EXHIBIT 7

PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation LAW/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis* (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—		
(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or		
(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists—		
(1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and		
(2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.		
(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; and		
Met? Y/N (3 REQ'D)	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall—	
	(1) Provide accurate records of all vehicle construction activities; and	
	(2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of:	
	(1) Ten or fewer buses; or	
	(2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or	
	(3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 7

PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/A mounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation LAW/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis* (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; and	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 8

PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		
Description		
Program/Phase/Amount s		
Purchaser's Post-Award Requirements Certification 49 CFR §663.37		
I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and		
I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's		
	Signature	
	Date Signed	

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: One (1)
DESCRIPTION: New Vehicles Purchase	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. The solicitation due date has been changed from January 17, 2022 at 3:00 PM MST to January 19, 2022 at 3:00 PM MST.
2. All other terms, conditions and provisions of this solicitation remain unchanged.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Two (2)
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. Specifications

The following sections are hereby modified to read:

- a. **Paragraph 2.1** "The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures."
- b. **Paragraph 3.3.1, 3.5.1 and 3.5.2** is hereby removed.
- c. **Paragraph 4.1:** "The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency."
- d. **Paragraph 4.1.1** is hereby removed.
- e. **Paragraph 4.4.1:** "The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency. "
- f. **Paragraph 4.6.1:** " Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW."

2. Special Terms and Conditions

The following sections are hereby modified to read:

- a. **Paragraph 11.1, (a-g):** "Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.
 - a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Three (3)
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. Specifications

The following sections are hereby modified to read:

- a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."
- b. **Paragraph 3.10:** "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Two (2)
DESCRIPTION: New Vehicles Purchases	

- b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
- c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
- d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
- e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.
- f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.
- g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order. "

b. Paragraph 22 is hereby replaced with the following: "The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. 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>"

c. Paragraph 25: Co-op administrative fee has hereby been removed.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Two (2)
DESCRIPTION: New Vehicles Purchases	

3. **Offer Response Form** is hereby replaced with Revision Two (2) attachment.
4. All other terms, conditions and provisions of this solicitation remain unchanged.

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	AMENDMENT NO.: Three (3)
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. Specifications

The following sections are hereby modified to read:

- a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."
- b. **Paragraph 3.10:** "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Offer Response Form for New Vehicle Purchases Revision Two (2)

*Please respond to the following items according to the instructions below. Each response should demonstrate the Offeror's ability to satisfy the Specifications requirements. **Failure to respond may negatively impact the option to award.***

1.1. The Contractor shall provide the goods/services described in any or all of the contract categories. Indicate the categories that apply to your offer:

- ☒ **Category One: Phase One (1) Vehicle Purchases**
- ☒ **Category Two: Phase Two (2) Vehicle Purchases**
- ☒ **Category Three: FTA Funded Vehicles**

1.2 PHASE ONE (1) Pricing for New Vehicle Purchases: Price List: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the time of Proposal submittal.* Do not provide pricing on any other format other than what is provided below:

Phase One (1) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Ford Mustang	11%
Ford Mustang Mach-e	-1%
Ford EcoSport	8%
Ford Escape	9%
Ford Edge	13%
Ford Explorer	11%
Ford Expedition	13%
Ford Bronco Sport	10%
Ford Bronco	8%
Ford Maverick	6%
Ford Ranger	14%
Ford F150	11%
Ford F-Super Duty	12%

Offer Response Form for New Vehicle Purchases Revision Two (2)

Ford Transit Connect	11%
Ford Transit	9%

1.3 PHASE TWO (2) Pricing for New Vehicle Purchases: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the time of Proposal submittal.* Do not provide pricing on any other format other than what is provided below:

Phase One (1) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Ford Mustang	2%
Ford Mustang Mach-e	-5%
Ford EcoSport	3%
Ford Escape	3%
Ford Edge	4%
Ford Explorer	3%
Ford Expedition	4%
Ford Bronco Sport	3%
Ford Bronco	2%
Ford Maverick	3%
Ford Ranger	8%
Ford F150	1%
Ford F-Super Duty	8%
Ford Transit Connect	7%
Ford Transit	5%

Offer Response Form for New Vehicle Purchases
Revision Two (2)

Offer Response Form for New Vehicle Purchases Revision Two (2)

1.4 Delivery Fees: If the contractor offers delivery for the following counties, they must be indicate and include any delivery fee associated with those areas as applicable.

County	Delivery Fee \$	County	Delivery Fee \$	County	Delivery Fee \$
☒ Apache	\$300	☒ Greenlee	\$300	☒ Pima	\$250
☒ Cochise	\$300	☒ La Paz	\$300	☒ Pinal	\$0
☒ Coconino	\$250	☒ Maricopa	\$0	☒ Santa Cruz	\$300
☒ Gila	\$0	☒ Mohave	\$350	☒ Yavapai	\$150
☒ Graham	\$250	☒ Navajo	\$250	☒ Yuma	\$300

1.5 Evaluation Pricing: The Contractor shall submit pricing for the following Vehicles. The vehicles listed which is representative of the scope of work that will be performed under this Contract, and therefore constitutes a fair method for determining price fair and reasonable:

1.5.1 Phase One (1) Evaluation Pricing:

<u>Estimated Usage Quantity</u>	<u>PHASE ONE (1) Base Model Vehicle</u>	<u>Base Price for Phase One (1)</u>	<u>Additional Information</u>
75	Sports Utility Vehicle (SUV) (<i>base model</i>) Per Minimum Specifications	\$22,746.00	
25	One (1) Ton Cargo Van (<i>base model</i>) Per Minimum Specifications	\$35,158.00	
50	1/2 Ton Truck Regular Cab (<i>base model</i>) Per Minimum Specifications	\$27,723.00	

Offer Response Form for New Vehicle Purchases
Revision Two (2)

1.5.2. Phase Two (2) Evaluation Pricing:

<u>Estimated Usage Quantity</u>	<u>PHASE TWO (2) Base Model Vehicle</u>	<u>Base Price for Phase TWO (2)</u>	<u>Additional Information</u>
25	Sports Utility Vehicle (SUV) (<i>base model</i>) Per Minimum Specifications	\$25,415.00	
15	One (1) Ton Cargo Van (<i>base model</i>) Per Minimum Specifications	\$39,890.00	
25	1/2 Ton Truck Regular Cab (<i>base model</i>) Per Minimum Specifications	\$31,702.00	

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
SAN TAN AUTO PARTNERS, LLC,
DBA SAN TAN FORD

[Purchase Order]

See following pages.

Prepared for: Matt Green, Fleet Supervisor, Town of Chino Valley

Office: 928-636-2646 | Mobile: 928-499-5146

Email: mgreen@chinoaz.net

End User FIN Code: KA595

Ship to:

Matt Green, Town of Chino Valley

2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455



Client Proposal

Prepared by:

Joe Sanchez

Office: 480-621-3741

Email: joesanchez@santanford.com

Quote ID: 71724-7

Date: 08/20/2024



San Tan Ford | 1429 East Motorplex Loop, Gilbert, Arizona, 852970410

Office: 480-821-3200 | Fax: 480-988-1691



Government Fleet Account Manager

Joe Sanchez (480) 621-3741

joesanchez@santanford.com

Department Fax (480) 621-3796

Date: July 17, 2024

Customer: Town of Chino Valley

Line Item/State Contract #: X1L / CTR059323

Vehicle Description: 2024 Ford F150 Super Cab 4X4 Short bed

with 2.7L EcoBoost V6 Engine

Base Bid Price **\$42,810.00**

Upgrade Options

1	3.55 Elocking Rear Axle	Included in Pricing
2	Black Platform Running Boards	250.00
3	Skid Plates	Included in Pricing
4	4 Keys with 2 FOBS	Included in Pricing
5	Window Tint	300.00
6	Mini Light Bar with Corner Strobes	2,737.00
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

\$3,287.00

Bid Price (with options) **\$46,097.00**

Tire Tax	5.00
Sales Tax (7.80%)	3,595.57

Ford Extended Service Plan

Transportation Fee **\$300.00**

Total Delivered Price **\$49,997.57**

Notes:

Thank You,
Joe



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

As Configured Vehicle

Code	Description
Base Vehicle	
X1L	Base Vehicle Price (X1L)
Packages	
101A	Equipment Group 101A Standard <i>Includes:</i> - Engine: 2.7L V6 EcoBoost - Includes auto start-stop technology. - Transmission: Electronic 10-Speed Automatic - Includes SelectShift with progressive range select and selectable drive modes: normal, ECO, sport, tow/haul, slippery, deep snow/sand and mud/rut. - GVWR: 6,550 lbs Payload Package - Tires: 265/70R17 BSW A/T - Wheels: 17" Silver Steel - Cloth 40/20/40 Front Seat - Includes 2-way manual driver/passenger and armrest. - Radio: AM/FM SiriusXM w/360L - Includes 6 speakers and auxiliary audio input jack. - SYNC 4 w/Enhanced Voice Recognition - Includes 12" LCD capacitive touchscreen with swipe capability, wireless phone connection, cloud connected, AppLink with App catalog, 911 Assist, Apple CarPlay and Android Auto compatibility, digital owners manual, conversational voice command recognition and connected navigation. Note: Navigation services require SYNC4 and FordPass Connect (optional on select vehicles). Eligible vehicles receive a complimentary 1-year trial of navigation services that begins on the new vehicle warranty start date. Customers must unlock the navigation service trial by activating the eligible vehicle with a FordPass member account. If not subscribed by the end of the complimentary period, the connected navigation service will terminate, and the system will revert to embedded offline navigation. Connected service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. FordPass App, compatible with select smartphone platforms, is available via a download. Message and data rates may apply.
Powertrain	
99P	Engine: 2.7L V6 EcoBoost <i>Includes auto start-stop technology.</i>
44G	Transmission: Electronic 10-Speed Automatic <i>Includes SelectShift with progressive range select and selectable drive modes: normal, ECO, sport, tow/haul, slippery, deep snow/sand and mud/rut.</i>
XL9	Electronic Locking w/3.55 Axle Ratio
STDGV	GVWR: 6,550 lbs Payload Package
Wheels & Tires	
STDTR	Tires: 265/70R17 BSW A/T

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: **Matt Green**
Fleet Supervisor, Town of Chino Valley
Prepared by: Joe Sanchez
08/20/2024



San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

As Configured Vehicle (cont'd)

Code	Description
64C	Wheels: 17" Silver Steel
Seats & Seat Trim	
C	Cloth 40/20/40 Front Seat <i>Includes 2-way manual driver/passenger and armrest.</i>
Other Options	
145WB	145" Wheelbase
PAINT	Monotone Paint Application
STDRD	Radio: AM/FM SiriusXM w/360L <i>Includes 6 speakers and auxiliary audio input jack.</i> <i>Includes:</i> <i>- SYNC 4 w/Enhanced Voice Recognition</i> <i>Includes 12" LCD capacitive touchscreen with swipe capability, wireless phone connection, cloud connected, AppLink with App catalog, 911 Assist, Apple CarPlay and Android Auto compatibility, digital owners manual, conversational voice command recognition and connected navigation. Note: Navigation services require SYNC4 and FordPass Connect (optional on select vehicles). Eligible vehicles receive a complimentary 1-year trial of navigation services that begins on the new vehicle warranty start date. Customers must unlock the navigation service trial by activating the eligible vehicle with a FordPass member account. If not subscribed by the end of the complimentary period, the connected navigation service will terminate, and the system will revert to embedded offline navigation. Connected service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. FordPass App, compatible with select smartphone platforms, is available via a download. Message and data rates may apply.</i>
18B	Black Platform Running Boards
Fleet Options	
413	Skid Plates Requires valid FIN code. <i>Includes fuel tank, transfer case and front differential.</i>
WARANT	Fleet Customer Powertrain Limited Warranty Requires valid FIN code.

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Prepared for: Matt Green
Fleet Supervisor, Town of Chino Valley
Prepared by: Joe Sanchez
08/20/2024



San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

As Configured Vehicle (cont'd)

Code	Description
	<i>Ford is increasing the 5-year 60,000-mile limited powertrain warranty to 5-years, 100,000 miles. Only Fleet purchasers with a valid Fleet Identification Number (FIN code) will receive the extended warranty. When the sale is entered into the sales reporting system with a sales type fleet along with a valid FIN code, the warranty extension will automatically be added to the vehicle. The extension will stay with the vehicle even if it is subsequently sold to a non-fleet customer before the expiration. This extension applies to both gas and diesel powertrains. Dealers can check for the warranty extension on eligible fleet vehicles in OASIS. Please refer to the Warranty and Policy Manual section 3.13.00 Gas Engine Commercial Warranty. This change will also be reflected in the printed Warranty Guided distributed with the purchase of every new vehicle.</i>
Emissions	
425	50 State Emissions System
Exterior Color	
YZ_01	Oxford White
Interior Color	
CS_01	Black w/Medium Dark Slate w/Cloth 40/20/40 Front Seat

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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Pricing Summary - Single Vehicle

			MSRP
<i>Vehicle Pricing</i>			
Base Vehicle Price			\$45,085.00
Options			\$880.00
Colors			\$0.00
Upfitting			\$0.00
Fleet Discount			\$0.00
Fuel Charge			\$0.00
Destination Charge			\$1,995.00
Subtotal			\$47,960.00
<i>Pre-Tax Adjustments</i>			
Code	Description		MSRP
Discount	San Tan Ford Vehicle Discount		-\$4,900.00
Tint	Window Tint		\$300.00
Upfitting	Mini Light Bar with Corner Strokes		\$2,737.00
Subtotal			\$46,097.00
<i>Sales Taxes</i>			
Code	Description		MSRP
City Sales Tax	Gilbert Sales Tax		\$691.46
State Tax	Arizona State Sales Tax		\$2,904.11
Subtotal			\$49,692.57
<i>Post-Tax Adjustments</i>			
Code	Description		MSRP
Tire Tax	Tire Tax		\$5.00
Transportation	Vehicle Transportation		\$300.00
Subtotal			\$49,997.57
Total			\$49,997.57

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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Pricing Summary - Single Vehicle

Customer Signature

Acceptance Date



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs

Dimensions

- Conventional Capacity: 7,400 lbs.
- Fifth-wheel towing capacity: 7,300 lbs.
- Front brake diameter: 13.8"
- Cargo box length: 78.0"
- Cargo box volume: 62.3 cu.ft.
- Cargo box max width: 65.2"
- Cargo box length feet: 6.5
- Vehicle body width: 79.9"
- Wheelbase: 145.0"
- Front track: 67.9"
- Frame section modulus: 5.1 cu.in.
- Front bumper to front axle: 37.6"
- Interior rear cargo volume with seats folded: 30.6 cu.ft.
- Total passenger volume: 116.3 cu.ft.
- Headroom second-row: 40.3"
- Leg room second-row: 33.5"
- Shoulder room second-row: 66.1"
- Hip room second-row: 62.6"
- GCWR: 12,800 lbs.
- Gooseneck towing capacity: 7,300 lbs.
- Rear brake diameter: 13.2"
- Cargo box min width: 50.6"
- Pickup box depth: 21.4"
- Cargo box tailgate width: 60.3"
- Vehicle body length: 231.7"
- Vehicle body height: 77.2"
- Vehicle turning radius: 23.9'
- Rear track: 67.9"
- Frame yield strength (psi): 49300.0
- Front bumper to back of cab: 144.0"
- Max interior rear cargo volume: 30.6 cu.ft.
- Headroom first-row: 40.8"
- Leg room first-row: 43.9"
- Shoulder room first-row: 66.7"
- Hip room first-row: 62.5"

Powertrain

- Spark ignition system
- Engine cylinders: V-6
- Torque: 400 lb.-ft. @3500 RPM
- Auto stop-start engine
- 10-speed automatic
- Four-wheel drive
- Easy Fuel capless fuel filler
- Electronic transfer case shift
- Auto locking hub control
- EcoBoost 2.7L V-6 port/direct injection, DOHC, Ti-VCT variable valve control, twin turbo, engine with 325HP
- Horsepower: 325 HP@5500 RPM
- Radiator
- Driver selectable drivetrain mode
- Part-time 4WD
- Recommended fuel: regular unleaded
- All-speed ABS and driveline traction control
- * **Driver selectable rear locking differential**

Fuel Economy and Emissions

- Fuel economy (city/highway/combined): 18 mpg/24 mpg/20 mpg
- Fuel economy combined: 20 mpg
- Gasoline secondary fuel type
- Fuel economy city: 18 mpg
- Fuel economy highway: 24 mpg
- LEV3-ULEV70 emissions

Suspension and Handling

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Fleet Supervisor, Town of Chino Valley

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08/20/2024



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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

- Standard ride suspension
- Heavy-duty rear shock absorbers
- Heavy-duty front shock absorbers

Driveability

- 4-wheel disc brakes
- 4-wheel antilock (ABS) brakes
- Electronic parking brake
- Automatic brake hold
- Hill Start Assist
- Double wishbone front suspension
- Front coil springs
- Leaf spring rear suspension
- Rack-pinion steering
- Front and rear ventilated disc brakes
- Four channel ABS brakes
- Ford Co-Pilot360 - Post Collision Braking automatic post-collision braking system
- Brake assist system
- Independent front suspension
- Front anti-roll bar
- Rigid axle rear suspension
- Electric power-assist steering system
- 2-wheel steering system

Body Exterior

- Trailer wiring harness
- 4 doors
- Pickup bed-rail protectors
- Monotone paint
- Black door handles
- 2 front tow hooks
- Rear bumper step
- Black grille
- Black door mirrors
- Reverse opening right rear passenger door
- Active grille shutters
- P265/70RS17 AT BSW front and rear tires
- * **Running boards**
- Standard style pickup box
- Clearcoat paint
- Black side window trim
- Black front bumper
- Black rear bumper
- Black front bumper rub strip
- Standard style side mirrors
- Reverse opening left rear passenger door
- Tailgate
- Active aerodynamics
- 17 x 7.5-inch front and rear silver steel wheels

Convenience

- Power door locks with 2 stage unlocking
- All-in-one remote fob and ignition key
- Power tailgate/rear door lock
- FordPass Connect smart device vehicle start control
- Power first-row windows
- Tailgate Assist easy lift tailgate
- Front beverage holders
- 6 beverage holders
- Rear door bins
- Instrument panel bin
- Trip computer
- Keyfob activated front door locks
- Auto-locking doors
- Cruise control with steering wheel mounted controls
- Day/Night rearview mirror
- Integrated pickup box storage
- Fixed rear windshield
- Locking glove box
- Driver and passenger door bins
- Rear beverage holders
- Dashboard storage
- Cabback insulator

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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

- Over the air updates
- PRND in IP

Comfort

- Manual climate control
- Rear under seat climate control ducts
- Full headliner coverage
- Full floor coverage
- Carpet rear seatback upholstery
- Manual tilting steering wheel
- Cabin air filter
- Cloth headliner material
- Full vinyl floor covering
- Cloth rear seat upholstery
- Urethane steering wheel
- Manual telescopic steering wheel

Seats and Trim

- Seating capacity: 6
- Driver seat with 4-way directional controls
- Height adjustable front seat head restraints
- Split-bench front seat
- Manual reclining driver seat
- Manual reclining passenger seat
- Fixed rear seats
- Split-bench rear seat
- 40-20-40 split-bench front seat
- Front passenger seat with 4-way directional controls
- Manual front seat head restraint control
- Front seat center armrest
- Manual driver seat fore/aft control
- Manual passenger seat fore/aft control
- Height adjustable rear seat head restraints
- Cloth front seat upholstery

Entertainment Features

- 2 total number of 1st row displays
- Primary touchscreen display
- * **AM/FM/satellite**
- AM radio
- SiriusXM with 360L satellite radio
- Radio data system (RDS)
- SYNC 4 external memory control
- 3 month satellite trial subscription
- Speakers number: 6
- SYNC 4 voice activated audio controls
- Bluetooth wireless audio streaming
- 12 inch primary display
- SiriusXM with 360L AM/FM/Satellite radio
- In-vehicle audio
- FM radio
- Seek scan
- Auxiliary input jack
- Internet radio capability
- Standard grade speakers
- Steering wheel mounted audio controls
- Speed sensitive volume
- Fixed audio antenna

Lighting, Visibility and Instrumentation

- Digital/analog instrumentation display
- Trip odometer
- Compass
- Redundant digital speedometer
- Oil pressure gauge
- Voltmeter
- Gauge cluster display size (inches): 12.00
- Configurable instrumentation gauges
- In-radio display clock
- Exterior temperature display
- Tachometer
- Engine/electric motor temperature gauge
- Transmission fluid temperature gauge
- Light tinted windows



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

- Reflector headlights
- Ford Co-Pilot360 - Autolamp auto on/off headlight control
- Delay-off headlights
- DRL preference setting
- Illuminated entry
- Variable instrument panel light
- High mounted center stop light
- Fade interior courtesy lights
- LED low and high beam headlights
- Multiple enclosed headlights
- Auto High Beam auto high-beam headlights
- Variable intermittent front windshield wipers
- Front reading lights
- Daytime running lights
- Remote activated perimeter approach lighting
- Pickup box cargo light

Technology and Telematics

- Connected Navigation integrated navigation system with voice activation
- SYNC 4 handsfree wireless device connectivity
- FordPass App mobile app access
- 6 USB ports
- SYNC 4 911 Assist emergency SOS system via mobile device
- SYNC 4 AppLink/Apple CarPlay/Android Auto smart device wireless mirroring
- FordPass Connect 5G mobile hotspot internet access

Safety and Security

- Driver front impact airbag
- Safety Canopy System curtain first and second-row overhead airbags
- Seat mounted side impact front passenger airbag
- 6 airbags
- Front height adjustable seatbelts
- 2 seatbelt pre-tensioners
- Security system
- Lane Keeping Alert
- Pre-Collision Assist with Automatic Emergency Braking (AEB) forward collision mitigation
- Pre-Collision Assist with Pedestrian Detection
- Ford Co-Pilot360 - Reverse Camera rear mounted camera
- Reverse Sensing System rear parking sensors
- Seat mounted side impact driver airbag
- Passenger front impact airbag
- Airbag occupancy sensor
- Rear seat center 3-point seatbelt
- Front seatbelt pretensioners
- SecuriLock immobilizer
- Remote panic alarm
- BLIS (Blind Spot Information System)
- Reverse Brake Assist collision mitigation
- Driver Alert
- AdvanceTrac w/Roll Stability Control electronic stability control system with anti-rollover

Dimensions

General Weights

Curb weight	4,895 lbs.	Rear curb weight	1,966 lbs.
GVWR	6,550 lbs.	Payload	1,605 lbs.

Trailer Weights

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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Fifth-wheel towing capacity	7,300 lbs.	Gooseneck towing capacity	7,300 lbs.
Conventional capacity	7,400 lbs.	GCWR	12,800 lbs.

Front Weights

Front curb weight	2,929 lbs.	GAWR front	3,525 lbs.
Axle capacity front	3,900 lbs.	Spring rating front	3,525 lbs.
Tire/wheel capacity front	4,050 lbs.		

Rear Weights

GAWR rear	3,400 lbs.	Axle capacity rear	4,050 lbs.
Spring rating rear	3,400 lbs.	Tire/wheel capacity rear	4,498 lbs.

Off Road

Min ground clearance	9.4"	Loading floor height	35.0 "
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Exterior Measurements

Vehicle body length	231.7"	Vehicle body width	79.9"
Vehicle body height	77.2"	Wheelbase	145.0"
Front brake diameter	13.8"	Cargo box length	78.0"
Rear brake diameter	13.2"	Cargo box min width	50.6"
Cargo box volume	62.3 cu.ft.	Pickup box depth	21.4"
Cargo box max width	65.2"	Cargo box tailgate width	60.3"
Cargo box length feet	6.5	Front track	67.9"
Rear track	67.9"	Vehicle turning radius	23.9'
Frame section modulus	5.1 cu.in.	Frame yield strength (psi)	49300.0
Front bumper to front axle	37.6"	Front bumper to back of cab	144.0"

Interior Measurements

Max interior rear cargo volume	30.6 cu.ft.	Interior rear cargo volume with seats folded	30.6 cu.ft.
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Interior Volume

Total passenger volume	116.3 cu.ft.
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Headroom

Headroom first-row	40.8"	Headroom second-row	40.3"
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Legroom

Leg room first-row	43.9"	Leg room second-row	33.5"
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Shoulder Room

Shoulder room first-row	66.7"	Shoulder room second-row	66.1"
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Hip Room

Hip room first-row	62.5"	Hip room second-row	62.6"
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Powertrain



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Engine

Engine	EcoBoost 2.7L V-6 port/direct injection, DOHC, Ti-VCT variable valve control, twin turbo, engine with 325HP	Valves per cylinder	4
Engine cylinders	V-6	Engine location	Front mounted engine
Ignition	Spark ignition system	Engine mounting direction	Longitudinal mounted engine
Engine block material	Iron engine block	Cylinder head material	Aluminum cylinder head

Engine Specs

Displacement	2.7L	cc	164 cu.in.
Bore	3.27"	Stroke	3.27"
Compression ratio	10.0	SAEJ1349	AUG2004 compliant

Engine Power

Horsepower	325 HP@5500 RPM	Torque	400 lb.-ft.@3500 RPM
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Alternator

Alternator amps	200A	Alternator type	Regular duty alternator
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Battery

Battery amps	70Ah	Battery type	Lead acid battery
Battery rating	760CCA	Battery run down protection	Battery run down protection

Engine Extras

Radiator	Radiator	Start-stop engine	Auto stop-start engine
Drivetrain selectable	Driver selectable drivetrain mode		

Transmission

Transmission	10-speed automatic	Transmission electronic control	Transmission electronic control
Overdrive transmission	Overdrive transmission	Lock-up transmission	Lock-up transmission
First gear ratio	4.696	Second gear ratio	2.985
Third gear ratio	2.146	Fourth gear ratio	1.769
Fifth gear ratio	1.52	Sixth gear ratio	1.275
Reverse gear ratio	4.866	Seventh gear ratio	1
Eighth gear ratio	0.854	Ninth gear ratio	0.689
Tenth gear ratio	0.636	Selectable mode transmission	Selectable mode transmission
Sequential shift control	SelectShift Sequential shift control		

Drive Type

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Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

4WD type	Part-time 4WD	Drive type	Four-wheel drive
<i>Drivetrain</i>			
Axle ratio	3.55		
<i>Exhaust</i>			
Tailpipe	Stainless steel single exhaust		
<i>Fuel</i>			
Fuel type	regular unleaded		
<i>Fuel Tank</i>			
Capless fuel filler	Easy Fuel capless fuel filler	Fuel tank capacity	36.01 gal.
<i>Drive Feature</i>			
Traction control	All-speed ABS and driveline traction control	Locking hub control	Auto locking hub control
Transfer case	Electronic transfer case shift	* Rear locking differential Driver selectable rear locking differential	

Fuel Economy and Emissions

<i>Fuel Economy</i>			
Secondary fuel type	Gasoline secondary fuel type	Fuel economy combined	20 mpg
Fuel economy city	18 mpg	Fuel economy highway	24 mpg
Fuel economy (city/highway/combined)	18 mpg/24 mpg/20 mpg	Fuel economy status	Previous year fuel economy status
<i>Emissions</i>			
Emissions	LEV3-ULEV70 emissions	Emissions tiers	Tier 3 Bin 70 emissions
<i>Green Values</i>			
Energy Impact Score (Barrels per year)	14.9	Carbon FP / Tailpipe and upstream total GHG (CO2, tons per year)	8.9

Suspension and Handling

<i>Suspension</i>			
Suspension	Standard ride suspension	Front shock absorbers	Heavy-duty front shock absorbers
Rear shock absorbers	Heavy-duty rear shock absorbers		

Driveability

Brakes

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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Brake type	4-wheel disc brakes	Ventilated brakes	Front and rear ventilated disc brakes
ABS brakes	Four channel ABS brakes	Electronic parking brake	Electronic parking brake
ABS brakes	4-wheel antilock (ABS) brakes	Post collision braking system	Ford Co-Pilot360 - Post Collision Braking automatic post-collision braking system
Brake Assistance			
Hill start assist	Hill Start Assist	Brake assist system	Brake assist system
Front Suspension			
Front anti-roll	Front anti-roll bar	Suspension ride type front	Independent front suspension
Suspension type front	Double wishbone front suspension		
Front Spring			
Regular front springs	Regular front springs	Springs front	Front coil springs
Rear Spring			
Springs rear	Rear leaf springs	Rear springs	Regular grade rear springs
Rear Suspension			
Suspension type rear	Leaf spring rear suspension	Suspension ride type rear	Rigid axle rear suspension
Steering			
Steering	Electric power-assist steering system	Steering type	Rack-pinion steering
Steering type number of wheels	2-wheel steering system		

Exterior

Front Wheels			
Front wheels diameter	17"	Front wheels width	7.5"
Rear Wheels			
Rear wheels diameter	17"	Rear wheels width	7.5"
Front And Rear Wheels			
Appearance	silver	Material	steel
Front Tires			
Aspect	70	Diameter	17"
Sidewalls	BSW	Speed	S
Tread	AT	Type	P
Width	265mm		

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2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Rear Tires

Aspect	70	Diameter	17"
Sidewalls	BSW	Speed	S
Tread	AT	Type	P
Width	265mm		

Body Exterior

Trailer

Towing capability	Trailer towing capability	Towing class	Class IV tow rating
Towing hitch	Trailer hitch	Towing wiring harness	Trailer wiring harness
Towing trailer sway	Trailer sway control		

Exterior Features

Box style	Standard style pickup box	Number of doors	4 doors
* Running boards	Running boards	* Skid plate	3 underbody skid plates

Body

Body panels... Aluminum body panels with side impact beams

Spare Tire

Spare tire... Full-size spare tire with steel wheel	Spare tire location	Crank-down spare tire
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Wheels

Wheel covers

Wheel hub covers

Convenience

Door Locks

Door locks	Power door locks with 2 stage unlocking	Keyfob door locks...	Keyfob activated front door locks
All-in-one key	All-in-one remote fob and ignition key	Auto door locks	Auto-locking doors
Tailgate control	Power tailgate/rear door lock		

Cruise Control

Cruise control

Cruise control with steering wheel mounted controls

Key Fob Controls

Fob remote vehicle controls ... FordPass Connect smart device vehicle start control

Rear View Mirror



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Day/Night rearview mirror Day/Night rearview mirror

Exterior Mirrors

Door mirrors Power door mirrors Folding door mirrors Manual folding door mirrors
Heated door mirrors Heated driver and passenger side door mirrors

Front Side Windows

First-row windows Power first-row windows

Overhead Console

Overhead console Mini overhead console Overhead console storage Overhead console storage

Passenger Visor

Visor passenger mirror . . . Passenger visor mirror

Power Outlets

12V power outlets 1 12V power outlet

Pickup Box

Box storage Integrated pickup box storage Easy lift tailgate Tailgate Assist easy lift tailgate

Rear Windshield

Rear windshield Fixed rear windshield

Storage

Door bins front Driver and passenger door bins Door bins rear Rear door bins
Number of beverage holders 6 beverage holders Beverage holders Front beverage holders
Beverage holders rear . . . Rear beverage holders Glove box Locking glove box
Instrument panel storage . . . Instrument panel bin Dashboard storage Dashboard storage

Windows Feature

One-touch up window Driver and passenger one-touch up windows One-touch down window . . Driver and passenger one-touch down windows

Windows Rear Side

Second-row windows Power second-row windows

Miscellaneous

Trip computer Trip computer Cabback insulator Cabback insulator
PRND in IP PRND in IP Over the air updates Over the air updates

Comfort

Climate Control



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Climate control Manual climate control
Rear under seat ducts... Rear under seat climate control ducts

Cabin air filter Cabin air filter

Headliner

Headliner material Cloth headliner material

Headliner coverage Full headliner coverage

Floor Trim

Floor covering Full vinyl floor covering

Floor coverage Full floor coverage

Second-Row Seat Trim

Rear seat upholstery... Cloth rear seat upholstery

Rear seatback upholstery... Carpet rear seatback upholstery

Steering Wheel

Steering wheel material Urethane steering wheel

Steering wheel telescopic..... Manual telescopic steering wheel

Steering wheel tilt... Manual tilting steering wheel

Seats and Trim

Seat Capacity

Seating capacity 6

Front Seats

Front seat type Split-bench front seat

Driver seat direction Driver seat with 4-way directional controls

Driver seat fore/aft control Manual driver seat fore/aft control

Passenger seat direction... Front passenger seat with 4-way directional controls

Split front seats... 40-20-40 split-bench front seat

Reclining passenger seat Manual reclining passenger seat

Passenger seat fore/aft control Manual passenger seat fore/aft control

Front head restraints Height adjustable front seat head restraints

Front head restraint control Manual front seat head restraint control

Armrests front center... Front seat center armrest

Reclining driver seatManual reclining driver seat

Rear Seats

Bench seats Split-bench rear seat

Rear seats fixed or removable... Fixed rear seats

Folding second-row seats 60-40 folding rear seats

Rear seat direction Front facing rear seat

Rear seat folding position Fold-up rear seat cushion

Rear head restraints Height adjustable rear seat head restraints

Rear head restraint control Manual rear seat head restraint control

Number of rear head restraints... 3 rear seat head restraints



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Front Seat Trim

Front seat upholstery Cloth front seat upholstery	Front seatback upholstery Cloth front seatback upholstery
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Interior Accents

Interior accents Chrome interior accents

Gearshifter Material

Gearshifter material Urethane gear shifter material

Entertainment Features

Displays

Primary touchscreen display Primary touchscreen display	Number of first-row displays 2 total number of 1st row displays
Primary display size 12 inch primary display	

Radio Features

Aux input jack Auxiliary input jack	External memory SYNC 4 external memory control
Seek scan Seek scan	RDS Radio data system (RDS)
Internet radio capability Internet radio capability	

Speakers

Speakers Standard grade speakers	Speakers number 6
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Audio Features

Steering mounted audio control Steering wheel mounted audio controls	Speed sensitive volume Speed sensitive volume
Voice activated audio SYNC 4 voice activated audio controls	Wireless streaming Bluetooth wireless audio streaming

Lighting, Visibility and Instrumentation

Instrumentation

Trip odometer Trip odometer	Instrumentation display Digital/analog instrumentation display
Configurable instrumentation gauges Configurable instrumentation gauges	

Instrumentation Displays

Speedometer Redundant digital speedometer	Temperature display Exterior temperature display
Clock In-radio display clock	Compass Compass



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Instrumentation Gauges

Tachometer	Tachometer	Oil pressure gauge	Oil pressure gauge
Transmission temperature gauge	Transmission fluid temperature gauge	Voltmeter	Voltmeter
Engine/electric motor temperature gauge	Engine/electric motor temperature gauge	Gauge cluster display size (inches)	12.00

Instrumentation Warnings

Engine temperature warning	Engine temperature warning	Oil pressure warning	Oil pressure warning
Low fuel warning	Low fuel warning	Low brake fluid warning	Low brake fluid warning
Battery charge warning	Battery charge warning	Headlights on reminder	Headlights on reminder
Key in vehicle warning	Key in vehicle warning	Door ajar warning	Door ajar warning
Service interval warning	Service interval indicator	Low tire pressure warning	Tire specific low air pressure warning

Glass

Tinted windows	Light tinted windows
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Headlights

Headlights	LED low and high beam headlights	Headlight type	Reflector headlights
Auto headlights	Ford Co-Pilot360 - Autolamp auto on/off headlight control	Multiple headlights	Multiple enclosed headlights
Delay off headlights	Delay-off headlights	Auto high-beam headlights	Auto High Beam auto high-beam headlights
DRL preference setting	DRL preference setting		

Front Windshield

Wipers	Variable intermittent front windshield wipers
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Interior Lighting

Illuminated entry	Illuminated entry	Variable panel light	Variable instrument panel light
Front reading lights	Front reading lights		

Lights

Running lights	Daytime running lights	Interior courtesy lights	Fade interior courtesy lights
High mount stop light	High mounted center stop light	Pickup box cargo light	Pickup box cargo light
Perimeter approach lighting	Remote activated perimeter approach lighting		



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Technology and Telematics

Navigation

Integrated navigation Connected Navigation
integrated navigation system with voice
activation

Connectivity

Handsfree SYNC 4 handsfree wireless device
connectivity

Smart device integration SYNC 4 AppLink/Apple
CarPlay/Android Auto smart device wireless
mirroring

Emergency SOS SYNC 4 911 Assist
emergency SOS system via mobile device

Internet Access

Internet access ... FordPass Connect 5G mobile
hotspot internet access

USB Ports

USB ports 6 USB ports

Safety and Security

Airbags

Front impact airbag driver Driver front impact
airbag
Front impact airbag passenger Passenger front
impact airbag
Front side impact airbag passenger Seat mounted
side impact front passenger airbag
Overhead airbags Safety Canopy System
curtain first and second-row overhead
airbags

Number of airbags 6 airbags

Front side impact airbag driver Seat mounted side
impact driver airbag
Occupancy sensor Airbag occupancy sensor

Seatbelts

3-point seatbelt Rear seat center 3-point
seatbelt
Seatbelt pretensioners Front seatbelt
pretensioners

Height adjustable seatbelts Front height
adjustable seatbelts
Seatbelt pretensioners number 2 seatbelt pre-
tensioners

Security System

Immobilizer SecuriLock immobilizer
Security system Security system

Remote panic alarm Remote panic alarm

Active Driving Assistance



2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Selected Equip & Specs (cont'd)

Lane departure	Lane Keeping Alert	Blind spot	BLIS (Blind Spot Information System)
Forward collision warning	Pre-Collision Assist with Automatic Emergency Braking (AEB) forward collision mitigation	Rear collision warning	Reverse Brake Assist collision mitigation
Pedestrian detection	Pre-Collision Assist with Pedestrian Detection	Driver attention monitor	Driver Alert

Cameras

Rear camera	Ford Co-Pilot360 - Reverse Camera rear mounted camera
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Traction Control

Electronic stability control	AdvanceTrac w/Roll Stability Control electronic stability control system with anti-rollover
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Parking Sensors

Parking sensors	Reverse Sensing System rear parking sensors
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Prepared for: **Matt Green**
Fleet Supervisor, Town of Chino Valley
Prepared by: Joe Sanchez
08/20/2024



San Tan Ford | 1429 East Motorplex Loop Gilbert Arizona | 852970410

2024 F-150 4x4 SuperCab 6.5' box 145" WB XL (X1L)

Price Level: 455 | Quote ID: 71724-7

Warranty

Standard Warranty

Basic Warranty

Basic warranty 36 months/36,000 miles

Powertrain Warranty

Powertrain warranty 60 months/60,000 miles

Corrosion Perforation

Corrosion perforation warranty 60 months/unlimited

Roadside Assistance Warranty

Roadside warranty 60 months/60,000 miles



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 5c
MEETING DATE: 9/10/2024
CONTACT PERSON: Frank Marbury, Public Works Director/Town Engineer
ITEM TYPE: Consent Item

AGENDA ITEM TITLE:

Consideration and possible action to approve the Cooperative Purchasing Agreement for the purchase of a Trail King Transport Trailer from Empire Truck & Trailer for \$53,548.84.

SUMMARY:

A heavy-duty equipment trailer is needed for use in the Streets Department. This new unit will fill the need for transporting heavy equipment and machinery throughout the Town. It will also be used in the event of the need to transport equipment to a vendor for warranty or specialized repairs. It will bring value to the Town and save wear and tear on vehicles from "roading." Also, a significant savings will be realized in transportation costs if equipment needs to go to a vendor. The money for these purchases has been budgeted. The need for these units has been determined.

PREVIOUS ACTION:

N/A

STAFF RECOMMENDATION:

Approve the Cooperative Purchasing Agreement for the purchase of a Trail King Transport Trailer from Empire Truck & Trailer for \$53,548.84.

FISCAL IMPACT?

Available budget: HURF - Machinery and Equipment - Heavy Duty Equipment Trailer	\$50,000.00
Additional available budget: HURF - Machinery and Equipment - Asphalt Patching Equipment	3,548.84
Less this approval item: Trail King Transport Trailer from Empire Truck & Trailer	<u>-53,548.84</u>
Remaining budget: HURF - Machinery and Equipment - Heavy Duty Equipment Trailer	\$0.00

ATTACHMENTS:

1.	AGR - CPA - Empire Truck and Trailer - Trail King Transport Trailer
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**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE SOUTHWEST, LLC, DBA EMPIRE TRUCK & TRAILER**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of September 10, 2024, between the Town of Chino Valley, an Arizona municipal corporation (the “Town”), and Empire Southwest, LLC, a Delaware limited liability company dba Empire Truck & Trailer (the “Vendor”). The Town and the Vendor are the only parties to this Agreement; they are each individually a “Party,” and together they are the “Parties.”

RECITALS

A. After a competitive procurement process, the City of Tucson, in partnership with OMNIA Partners, entered Contract No. 212816-01, effective October 3, 2022, as amended by Contract Addendum No. 1, dated August 25, 2023 (the “Tucson Contract”), for the purchase of heavy equipment, parts, accessories, supplies, and related services. A copy of the Tucson 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 equipment and services under the Tucson Contract, at its discretion and with the agreement of the awarded Vendor.

C. The Town and the Vendor desire to enter this Agreement to (i) acknowledge their cooperative contractual relationship under the Tucson Contract and this Agreement, (ii) establish the terms and conditions by which the Vendor may provide the Town with heavy equipment, parts, accessories, supplies, and related services, as more particularly set forth in Section 2 below (the “Equipment and Services”), and (iii) set the maximum aggregate amount to be expended pursuant to this Agreement related to the Equipment 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 Vendor 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, 2025 (the “Term”), unless terminated as otherwise provided in this Agreement or the Tucson Contract. The terms and conditions of the Tucson Contract are incorporated herein and shall survive the termination or expiration thereof.

2. Scope of Work. The Vendor shall provide to the Town the Equipment and Services under the terms and conditions of the Tucson Contract and in the configurations set forth in Quote No. TK-86569.00 (the “Quote”) attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. All Equipment and Services are subject to final inspection and acceptance by the Town. Equipment failing to conform to the requirements of this Agreement and/or the Tucson Contract will be held at the Vendor's risk and may be returned to the Vendor. If so returned, all costs are the responsibility of the Vendor. Upon discovery of non-conforming Equipment or Services, the Town may elect to do either of the following by written notice to the Vendor: (A) waive the non-conformance or (B) bring Equipment or Service into compliance and withhold the cost of same from any payments due to the Vendor.

4. Compensation. The Town shall pay the Vendor an amount not to exceed \$53,548.84 for Equipment and Services at the unit rates set forth in the Tucson Contract and as more particularly set forth in the Quote.

5. Payments. The Town shall pay the Vendor upon delivery and acceptance of the Equipment and Services and upon submission and approval of the invoice(s). The invoice(s) shall (i) contain a reference to this Agreement and the Tucson Contract and (ii) document the Equipment and Services delivered and accepted to date. Additionally, invoices submitted without referencing this Agreement and the Tucson Contract will be subject to rejection and may be returned.

6. Safety Plan. The Vendor shall provide the Equipment and 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 Vendor's sole determination, the Equipment and Services to be provided do not require a safety plan, the Vendor 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 Vendor and its subcontractors are complying with the warranty under Section 8 below, the Vendor'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 Vendor'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 (i) evaluation and verification of any invoices, payments or claims based on the Vendor'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 Vendor'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 Vendor 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 Vendor pursuant to this Agreement. The Vendor 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 Vendor or its subcontractors reasonable advance notice of

intended audits. The Vendor 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 Vendor 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 Vendor's or its subcontractors' 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 applicable under ARIZ. REV. STAT. § 35-393 through § 35-393.03, 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.

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 Vendor 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 Vendor 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 Tucson Contract, including any amendments, the Quote, and invoices, then the documents shall govern in that order. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement or the Tucson Contract (collectively, the "Unauthorized Conditions"), other than the Town's project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the

Town of any invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the Tucson Contract shall not alter such terms and conditions or relieve the Vendor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement

14. Rights and Privileges. To the extent provided under the Tucson Contract, the Town shall be afforded all of the rights and privileges afforded to the City of Tucson and shall be “Tucson” (as defined in the Tucson Contract) for the purposes of the portions of the Tucson 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 Tucson 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 Vendor’s obligation to provide the indemnification and insurance. In any event, the Vendor 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 Vendor, its officers, employees, agents, or any tier of subcontractor 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, 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:

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 the Vendor: Empire Truck & Trailer
840 North 43rd Avenue
Phoenix, AZ 85009
Attn: Jim Burpee

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 Vendor 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.

IN WITNESS WHEREOF, the Parties 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

“Vendor”

EMPIRE SOUTHWEST, LLC, a
Delaware limited liability company dba
Empire Truck & Trailer

By:_____

Name:_____

Title:_____

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE SOUTHWEST, LLC, DBA EMPIRE TRUCK & TRAILER

[Tucson Contract]

See the following pages.

Contract # 212816-01

Heavy Equipment, Parts, Accessories, Supplies and Related Services

Caterpillar, Inc.

Table of Contents

Negotiation Confirmation Letter

(BAFO) – Price Page

Negotiated Exceptions

Request for Clarifications

Offer and Acceptance

Caterpillar, Inc. - Response to RFP 212816

Caterpillar, Inc. Insurance Documents

Caterpillar, Inc. and OMNIA Partners

National Cooperative Agreement

Contract # 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

Negotiation Confirmation Letter



September 6, 2022

Sent via email, this day

Tirena Pavelka, Government Sales Account Manager
Caterpillar Inc.
100 NE Adams St.
Peoria, IL 61629
Email: Pavelka_tirena_l@cat.com

Subject: Request for Proposal No. 212816 -Heavy Equipment, Parts, Accessories, Supplies and Related Services
Negotiation Confirmation Letter

Dear Ms. Tirena Pavelka:

Based on previous responses, discussions and negotiations, this letter serves as a request for confirmation that the statements below represent your firm's best and final offer to the City of Tucson regarding the subject solicitation. Specifically, you are asked to provide written confirmation by signing the concurrence line below. Points of agreement not identified below are not included in the offer. In the event there is any disagreement with this document or if there is other information that must be included in this document, **Caterpillar, Inc.**, must specify such in a written response to this request.

The following agreement has been made between the City of Tucson and **Caterpillar, Inc.**, with regard to Request for Proposal No. 212816 and incorporates the documentation as delineated in the following order of precedence.

Order of Precedence:

The following documents comprise the order of precedence of the executed contract.

- Item 1. Negotiated Confirmation Letter, dated September 6th, 2022.
- Item 2. Caterpillar Inc., Intent to Negotiate and BAFO response and email and attachments, dated August 17th and 23rd, 2022.
- Item 3. Caterpillar Inc., Intent to Negotiate – Exceptions response and email dated July 29th, 2022.
- Item 4. Caterpillar Inc., Request for Clarifications response and email dated December 1st, 2021.
- Item 5. Caterpillar Inc., Response to Request for Proposal dated September 10th, 2021.

Your response to this letter must be received by the City's Business Services Department no later than **Friday, September 9th, 2022, 4:00 PM Local Arizona Time.**

Sincerely,

Cynthia Thompson, NIGP-CPP, CPPB
Principal Contract Officer

Concurrence: Tirena Pavelka
Tirena Pavelka, Government Sales Account Manager
Caterpillar, Inc.

Date: 9/9/2022

Contract # 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

(BAFO) – Price Page

Caterpillar Cooperative Contract Discounts by Model OMNIA Partners

Machine Model*	New Equipment
2022	Discount to Customer (Off List Price)

*Note: Base machines are listed. There may be several different base machine configurations available. The base machine discount will be applied to any model configuration plus any and all options listed on the Caterpillar Machine price list.

Pavers

AP300	18.00%
AP355	18.00%
AP500	18.00%
AP555	18.00%
AP600	18.00%
AP655	18.00%
AP1000	18.00%
AP1055	18.00%

Rollers

CB1.7	19.00%
CB1.8	19.00%
CB7	19.00%
CB8	19.00%
CB10	19.00%
CB13	19.00%
CB15	19.00%
CB16	19.00%
CB2.5	19.00%
CB2.5GC	19.00%
CB2.7	19.00%
CB2.7GC	19.00%
CB2.9	19.00%
CB4.0	19.00%
CB4.4	19.00%
CC2.7	19.00%
CC2.7GC	19.00%
CC4.0	19.00%
CCS9	19.00%
CP11GC	19.00%
CP12GC	19.00%
CP34	19.00%
CP44	19.00%
CP54	19.00%
CP56	19.00%
CP68	19.00%
CP74	19.00%
CS11GC	19.00%
CS12GC	19.00%
CS13GC	19.00%
CS34	19.00%
CS44	19.00%
CS54	19.00%
CS56	19.00%
CS64	19.00%
CS68	19.00%
CS74	19.00%
CS78	19.00%
CW16	19.00%
CW34	19.00%

Track Type Tractors

D1	23.00%
D1 Fire Dozer	23.00%
D2	23.00%
D2 Fire Dozer	23.00%
D3	23.00%
D3 Fire Dozer	23.00%
D4	23.00%
D5	23.00%
D5 Fire Dozer	23.00%
D6	23.00%
D7	19.00%
D8	19.00%
D9	10.00%
D10	10.00%

Wheeled Excavators

M314	26.00%
M315	26.00%
M316	26.00%
M317	26.00%
M318	26.00%
M320	26.00%
M322	26.00%

Material Handlers

MH3022	26.00%
MH3024	26.00%
MH3026	26.00%

Cold Planers

PM310	20.00%
PM312	20.00%
PM313	20.00%
PM620	20.00%
PM622	20.00%
PM820	20.00%
PM822	20.00%
PM825	20.00%

Reclaimers

RM400	20.00%
RM500	20.00%

Telehandlers

TH255	23.00%
TH3510	24.00%
TH357	24.00%
TH408	24.00%
TH514	24.00%
TL642	24.00%
TL943	24.00%
TL1055	24.00%
TL1255	24.00%

Motor Graders

12	30.00%
120	34.00%
140	30.00%
140GC	30.00%
150	30.00%
160	30.00%
14	19.00%

Skid Steer Loaders

226	21.00%
232	21.00%
236	21.00%
242	21.00%
246	21.00%
262	21.00%
272	21.00%

Compact Track Loaders

239	21.00%
249	21.00%
259	21.00%
279	21.00%
289	21.00%
299	21.00%
299XE Land Management	21.00%

Excavators

300.9	20.00%
301.4	20.00%
301.5	20.00%
301.7	20.00%
301.8	20.00%
302	20.00%
302.4	20.00%
302.5	20.00%
302.6	20.00%
302.7	20.00%
303	20.00%
303.5	20.00%
304	20.00%
304.5	20.00%
305	20.00%
305.5	20.00%
306	20.00%
307	20.00%
307.5	20.00%
308	20.00%
309	20.00%
310	20.00%
311	18.00%
313	15.00%
313GC	16.00%
315	19.00%
315GC	20.00%
316	19.00%
317	19.00%
317GC	20.00%
318	16.00%

Excavators Continued

320	15.00%
320GC	16.00%
323	15.00%
325	15.00%
326	15.00%
330	15.00%
330GC	16.00%
335	15.00%
336	15.00%
336GC	16.00%
340	15.00%
349	10.00%
352	10.00%
374	10.00%

Forest Machines

538	15.00%
548	15.00%
558	15.00%
568	15.00%

Backhoe Loaders

415	22.00%
416	22.00%
420	22.00%
428 Side Shift	22.00%
430	22.00%
432 Side Shift	22.00%
434 Side Shift	22.00%
440	22.00%
450	22.00%

Wheel Tractor Scrapers

621	18.00%
623	18.00%
627	18.00%
631	18.00%
637	18.00%
657	18.00%

Articulated Trucks

725	17.00%
730	17.00%
735	17.00%
740GC	17.00%
745	17.00%

Rigid Frame Trucks

770	3.00%
773	3.00%

Landfill Compactors

816	12.00%
826	12.00%
836	12.00%

Wheel Dozers and Soil Compactors

814	15.00%
815	13.00%
824	15.00%
825	13.00%
834	15.00%

Wheel Loaders

903	23.00%
906	23.00%
907	23.00%
908	23.00%
910	23.00%
914	23.00%
918	24.00%
920	24.00%
924	24.00%
926	24.00%
930	24.00%
938	24.00%
950GC	20.00%
950M	18.00%
962	18.00%
966	15.00%
972	11.00%
980	11.00%
982	11.00%
988	11.00%

Track Loaders

953	19.00%
963	22.00%
973	23.00%

Aftermarket Worktools*

15.00%

Caterpillar Safety Services

15.00%

Technology Enabled Safety Solutions

5.00%

Technology subscriptions are discounted at 0% on all equipment
Used Equipment is discounted 20% from Original Customer List

Rental Equipment is discounted 10% from dealership rental rates

Parts & Service is discounted by the servicing dealer at local rates

* Aftermarket Worktools are CAT Worktools sold without a prime product machine purchase.

CAT Generators

Product	Minimum List Discount for OMNIA Member ¹
DG50-DG80 (G80 PGAM)	31%
DG100-DG150 (G150 PGAM)	35%
D40 – D100 (C4.4)	31%
D125 – D200 (C7.1)	35%
Olympian Gas	26%
DG175 – DG450 (G14.2 & G21.9)	26%
C4.4 GC / C7.1 GC Product	31%
C9 - 200 kW	33%
C9 – 250 - 300 kW	37%
C13 / C15 - 350 – 500kW	37%
C18 T4F	20%
C18 – 550 - 600kW	37%
C18 – 650 - 750kW	33%
C9 – C18 GC Product (250 - 600kW)	31%
C27 – 750 kW, 800kW	34%
C32 – 1000kW	34%
C32 – 1250 kW	34%
3512C- 1500kW	36%
3512C- 1750kW	34%
3516C/3516E 2000 kW	40%
3516C/3516E 2500 kW	36%
3516C/3516E 2750 kW	33%
3516 Tier 4	19%
C175-16	29%
C175-16 Tier 4	19%
C175-20	24%
Hybrid Products	19%
Tier 4 Final XQ Product XQ35, XQ60, XQ125, XQ230, XQ425 & XQ570	23%
EPIC / SCP	10%
Cat ATS ³	20%
Cat Switchgear ⁴	12%
CG132-8,-12,-16 ⁵	15%
CG170-12,-16,-20 ⁵	15%
CG260-12,-16 ⁵	15%
G3412 450-500kW	20%
G3508 / G3512	17%
G3516	17%
G3520	17%

OMNIA Partners**Allied Product Discounts Off List Price**

<u>Construction & Mining</u>	
Brand	Minimum Discount
American Compaction	7%
Arrow Material Handling	5%
Broce	7%
Crafco	3%
Diamond Mowers	10%
Dymax	8%
Enerpac	5%
Epiroc	9%
Genie	20%
HKX	5%
JLG	22%
Mega	8%
Metso	3%
Multiquip	24%
Paladin / JRB	8%
Jet-Vac	5%
Road Widener	5%
Rockland	8%
Summit	5%
TY Cushion	3%
Tink	5%
Weiler	10%
Werk-Brau	5%
Woods	11%
<u>ON- HIGHWAY</u>	
Brand	Minimum Discount
Fleming	8.40%
Load King	3%
Maintainer	6%
Murray Trailers	2%
Rackley	2%
Thunder Creek	6%
Trail King	7%
UTB	8.40%

AGRICULTURE	
Brand	Minimum Discount
Challenger	13%
Claas	6%
Gearmore	13%
Grouser	5%
Fendt	6%
Lexion	6%
Massey Ferguson	13%
Massey Ferguson	13%
Massey Ferguson	13%
Mil-Stak Inc	3%
Nikkel Iron Works	7%
Reynolds	13%
Rogator	6%
Rome Plow	13%
Schmeiser	5%
Stinger Inc.	1%
Sunflower	6%
T.G. Schmeiser	13%
Terragator	6%
Valmar	7%
Wilcox	13%
Willmar	6%
Woods	13%
POWER SYSTEMS	
Brand	Minimum Discount
ABB	5%
Active Power	2%
Allmand	18%
Asco	10%
Atlas Copco	10%
Avtron	6%
Crestchic	5%
Multiquip	7%
Progressive Solar	10%
Stamford Newage	2%
Sullair	28%
Toshiba	5%

<u>TECHNOLOGY</u>	
Brand	Minimum Discount
Caterpillar	12%
Cerragon	5%
CrewSight	5%
DJI Enterprises	0%
GCEstimator Suite	5%
Level Best	10%
Modelogix	5%
ProjectSight	5%
Prolog	5%
Quantum	8%
RADWIN	5%
Rajant	0%
RealWorks	10%
Seco	12%
Sensemetrics	5%
SitePro	12%
Spectra Precision	12%
Trimble	12%
VICO Office	5%
Winest	5%
<u>Empire Technology Companies</u>	
Allen Instruments BuildingPoint West SITECH TOPS	
<u>Renewable Energy</u>	
Brand	Minimum Discount
ABB	3%
BTC Power	3%
Fronius	4%
Satcon	3%
SMA America	4%
Sun Power	3%

Unlisted and Future Allied Products
* The following procedure will be available to add future Allied products: 1. Empire will provide a letter to the City of Tucson stating that we have become a Dealer for a new product. 2. Empire will add the product(s) to the appropriate area of the Allied list along with the stated discount off the manufacturer's list price. 3. An updated list will be sent to the City of Tucson to be added to the contract.

For emergency needs for machines or products that have to be delivered before a stated discount can be established, the following will be the discount structure for unlisted and/or future Allied products.

	Minimum Discount
All unnamed suppliers without a stated discount will receive a minimum discount of 5% off the manufacturer's list price	5%

Caterpillar OMNIA Member Discounts 2022

All Discounts listed are for "Standby Ratings only unless otherwise stated".

List Price Discount	
Stationary Diesel	
60 HZ, 40 - 60 kW Diesel (Reference the "PSNA-EPG-F_C4.4LCABR" Caterpillar Price List)	
D40 - 40 kW	31%
D50 - 50 kW	31%
D60 - 60 kW	31%
60 HZ, 80 - 100 kW Diesel (Reference the "PSNA-EPG-F_C4.4PGABR" Caterpillar Price List)	
D80 - 80 kW	31%
D100 - 100 kW	31%
60 HZ, 125 - 175 kW Diesel (Reference the "PSNA-EPG-F_C7.1PGABR" Caterpillar Price List)	
D125 - 125 kW	35%
D150 - 150 kW	35%
D175 - 175 kW	35%
D200 - 200 kW	36%
C9, 60 HZ, 200 - 300 kW Diesel (Reference the "PSNA-EPG-F_C9PGAM" Caterpillar Price List)	
200 kW	33%
250 kW	37%
300 kW	37%
C13, 60 HZ, 350 - 400 kW Diesel (Reference the "PSNA-EPG-F_C13PGAM" Caterpillar Price List)	
350 kW	37%
400 kW	37%
C15, 60 HZ, 350 - 500 kW Diesel (Reference the "PSNA-EPG-F_C15PGAM" Caterpillar Price List)	

350 kW	37%
400 kW	37%
450 kW	37%
500 kW	37%
C18, 60 HZ, 550 - 600 kW Diesel (Reference the "PSNA-EPG-F_C18PGAM" Caterpillar Price List)	
550 kW	37%
600 kW	37%
650 kW	33%
700 kW	33%
750 kW	33%
C18, 60 HZ, EPA Tier 4f, 455 - 500 kW Diesel (Reference the "PSNA-EPG-F_C18PKAM" Caterpillar Price List)	
455 kW Prime Power	20%
500 kW	20%
C27, 60 HZ, 750 - 800 kW Diesel (Reference the "PSNA-EPG-F_C27PGBG" Caterpillar Price List)	
750 kW	34%
800 kW	34%
C32, 60 HZ, 1000 - 1250 kW Diesel (Reference the "PSNA-EPG-F_C32PGDG" Caterpillar Price List)	
1000 kW	34%
1250 kW	34%
3512C, 60 HZ, 1500 - 1750 kW Diesel	
(EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3512PGFL" Caterpillar Price List)	
1500 kW	37%
1750 kW	35%
3516C/3516E, 60 HZ, 2000 - 2750 kW Diesel	
(EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3516PGFL" Caterpillar Price List)	
2000 kW	40%

2500 kW	38%
2750 kW	34%
3516C-HD, 60 HZ, 2000 - 2500 kW Diesel (EPA Tier 4)	
(Reference the "PSNA-EPG-F_3516PGFL" Caterpillar Price List)	
2000 kW	19%
2500 kW	19%
C175-16, 60 HZ, 3000 kW Diesel (EPA Tier 2 for Mobile and Stationary Use)	
(Reference the "PSNA-EPG-F_C175-16EL" Caterpillar Price List)	
3000 kW	30%
C175-16, 60 HZ, 3000 kW Diesel (EPA Tier 4)	
(Reference the "PSNA-EPG-F_C175A16EL" Caterpillar Price List)	
3000 kW	19%
C175-20, 60 HZ, 4000 kW Diesel (EPA Tier 2 for Mobile and Stationary Use)	
(Reference the "PSNA-EPG-F_C175-20EL" Caterpillar Price List)	
4000 kW	24%
Stationary Natural Gas (Select LP Vapor Options with Derates)	
50 - 60 kW Caterpillar Natural Gas (Reference the "PSNA-EPG-F_G80PGAM" Caterpillar Price List)	
DG50 - 50 kW	31%
DG60 - 60 kW	31%
DG80 - 80 kW	31%
100 - 150 kW Caterpillar Natural Gas (Reference the "PSNA-EPG-F_G150PGAM" Caterpillar Price List)	
DG100 - 100 kW	35%
DG125 - 125 kW	35%
DG150 - 150 kW	35%
175 - 300 kW Olympian Natural Gas (Reference the "PSNA-EPG-F_GASOLYGN" Caterpillar Price List)	
G175 - 175 kW	26%

G200 - 200 kW	26%
G230 - 230 kW	26%
G250 - 250 kW	26%
G275 - 275 kW	26%
G300 - 300 kW	26%
G3412, 60 HZ, 375 - 500 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3412PGG" Caterpillar Price List)	
375 kW	20%
450 kW	26%
500 kW	26%
G3512 60 HZ, 750 - 1000 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3512NL" Caterpillar Price List)	
750 kW	17%
1000 kW	17%
G3516 60 HZ, 750 - 1000 kW Natural Gas, Landfill Gas, & Biogas (Ratings Depend on Selection)	
(Reference the "PSNA-EPG-F_G3516AEPL" Caterpillar Price List)	
All Ratings	17%
G3516C 60 HZ, 1500 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3516CTPL" Caterpillar Price List)	
1500 kW	17%
G3516H 60 HZ, 1966 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3516HNL" Caterpillar Price List)	
1966 kW	17%
G3520H 60 HZ, 2469 kW Natural Gas	
(Reference the "PSNA-EPG-F_G3520HNL" Caterpillar Price List)	
2469 kW	17%
G3520C 60 HZ, 1600 - 2055 kW Natural Gas	

(Reference the "PSNA-EPG-F_G3520CPGL" Caterpillar Price List)	
1600 kW	17%
2055 kW	17%
CG132, CG170, CG260 (custom)	
Due to the customization and plethora of options, it is not feasible to provide a paper price list for these specific generator sets.	15%
Each quote is custom for the specific application.	
However, members will receive a 15% discount off of the configured list price from each member's local dealer.	
Mobile Diesel (With Trailers)	
XQ35, 60 HZ, 35 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ35BM" Caterpillar Price List)	
27 kW Prime Power	23%
30 kW	23%
XQ60, 60 HZ, 59 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ60BM" Caterpillar Price List)	
48 kW Prime Power	23%
XQ125, 60 HZ, 125 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ125BM" Caterpillar Price List)	
100 kW Prime Power	23%
110 kW	23%
XQ230, 60 HZ, 230 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ230BM" Caterpillar Price List)	
200 kW Prime Power	23%
XQ425, 60 HZ, 425 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ425BM" Caterpillar Price List)	
340 kW Prime Power	23%

XQ570, 60 HZ, 570 kVA Prime Diesel (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ570BG" Caterpillar Price List)	
455 kW Prime Power	23%
Control Panels, Switchgear, Automatic Transfer Switches	
Switchgear (customizable)	12%
<i>Due to the customization and plethora of options, it is not feasible to provide a paper price list for Cat switchgear. However, members will receive a 12% discount off of the configured list price from each member's local dealer.</i>	
Epic (Reference the "PSNA-EPG-F_CATEPICG" Price List)	
Epic - Master Control Panel	10%
Epic - Generator Control Panel	10%
Epic - Utility Control Panel	10%
Supervisory Control Panel (Reference the "PSNA-EPG-F_CATSCPN" Price List)	
EMCP 4.4 SCP	10%
ATS (AUTOMATIC TRANSFER SWITCHES) (Reference the "ATS NJPA Pricing 11-29-17" Price List)	
235 ATS's Available	20%

Effective with sales to the first user on or after July 1, 2021

CATERPILLAR LIMITED WARRANTY

Rubber Track used on Multi Terrain Loader, Compact Track Loader and Mini Hydraulic Excavator

Worldwide

Caterpillar Inc. or any of its subsidiaries ("Caterpillar") warrants Cat® and Yellowmark™ new rubber tracks sold by it for use on Compact Construction Equipment Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators to be free from defects in material and workmanship. The warranty is subject to the following:

Warranty Period

The standard warranty period for all new Premium rubber tracks used on Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators is 12 months, or 1500 operating hours, whichever occurs first, starting from the date of delivery to the first user.

The standard warranty period for new General Duty rubber tracks used on Multi Terrain Loaders and Compact Track Loaders is 12 months or 1000 operating hours, whichever occurs first, starting from the date of delivery to the first user.

The standard warranty period for new Yellowmark rubber tracks used on Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators is 12 months or 750 operating hours, whichever occurs first, starting from the date of delivery to the first user.

Caterpillar Responsibilities

If a disabling defect in material or workmanship is found during the warranty period, Caterpillar will, during normal working hours and at a place of business of a Cat® dealer or other source approved by Caterpillar:

- At Caterpillar's choice, repair or provide an allowance toward the purchase of a new rubber

track. Such allowance will be based on accrued hours. Allowance will be calculated as follows:

User Allowance for Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators with Premium rubber tracks:

Allowance (%) = (1-Track hours/1500 hours) X 100

User Allowance for Multi Terrain Loaders and Compact Track Loaders with General Duty rubber tracks:

Allowance (%) = (1-Track hours /1000 hours) X 100

User Allowance for Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators with Yellowmark rubber tracks:

Allowance (%) = (1-Track hours/750 hours) X 100

- Provide reasonable and customary repair labor needed to correct the defect if product found to be defective and its replacement are both installed by a Cat dealer or other source approved by Caterpillar, or installed on machine prior to sale.

User Responsibilities

The user is responsible for:

- Providing proof of the delivery date to the first user.
- All cost associated with transporting the product to and from the place of business of a Caterpillar dealer or other source approved by Caterpillar.
- Labor costs, except as stated under "Caterpillar Responsibilities."
- Local taxes, if applicable.

- Any remaining costs of a new rubber track after the calculation of the "User Allowance" as stated under "Caterpillar Responsibilities."
- Parts shipping charges in excess of those that are usual and customary.
- Costs to investigate complaints, unless the problem is caused by a defect in material or workmanship.
- Giving timely notice of a warrantable failure and promptly making the product available for repair.

Limitations

Caterpillar is not responsible for:

- Failures resulting from any use or installation that Caterpillar judges improper.
- Failures resulting from abuse, neglect, or improper repair.
- Failures resulting from user's delay in making the product available after being notified of a potential product problem.
- Failures resulting from unauthorized repair or adjustments and unauthorized fuel setting changes.
- Failures resulting from attachments, accessory items, and parts not sold or approved by Caterpillar.

(Continued on reverse side....)

This warranty covers every major component of the products. Claims under this warranty should be submitted to a place of business of a Cat dealer or other source approved by Caterpillar. For further information concerning either the location to submit claims or Caterpillar as the issuer of this warranty, write Caterpillar Inc., 100 N. E. Adams St., Peoria, IL USA 61629, telephone 1 (309) 675-1000, or go to URL www.cat.com, Find Your Dealer

Caterpillar's obligations under this Limited Warranty are subject to, and shall not apply in contravention of, the laws, rules, regulations, directives, ordinances, orders, or statutes of the United States, or of any other applicable jurisdiction, without recourse or liability with respect to Caterpillar.

A) For products operating outside of Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

NEITHER THE FOREGOING EXPRESS WARRANTY NOR ANY OTHER WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED, IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT CATERPILLAR EMISSION-RELATED COMPONENTS WARRANTY FOR NEW ENGINES, WHERE APPLICABLE. REMEDIES UNDER THIS WARRANTY ARE LIMITED TO THE PROVISION OF MATERIAL AND SERVICES, AS SPECIFIED HEREIN.

CATERPILLAR IS NOT RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

B) For products operating in Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

THIS WARRANTY IS IN ADDITION TO WARRANTIES AND CONDITIONS IMPLIED BY STATUTE AND OTHER STATUTORY RIGHTS AND OBLIGATIONS THAT BY ANY APPLICABLE LAW CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED ("MANDATORY RIGHTS"). ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), ARE EXCLUDED. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, WHERE A PRODUCT IS SUPPLIED FOR BUSINESS PURPOSES, THE CONSUMER GUARANTEES UNDER THE CONSUMER GUARANTEES ACT 1993 (NZ) WILL NOT APPLY.

NEITHER THIS WARRANTY NOR ANY OTHER CONDITION OR WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED (SUBJECT ONLY TO THE MANDATORY RIGHTS), IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

IF THE MANDATORY RIGHTS MAKE CATERPILLAR LIABLE IN CONNECTION WITH SERVICES OR GOODS, THEN TO THE EXTENT PERMITTED UNDER THE MANDATORY RIGHTS, THAT LIABILITY SHALL BE LIMITED AT CATERPILLAR'S OPTION TO (a) IN THE CASE OF SERVICES, THE SUPPLY OF THE SERVICES AGAIN OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN AND (b) IN THE CASE OF GOODS, THE REPAIR OR REPLACEMENT OF THE GOODS, THE SUPPLY OF EQUIVALENT GOODS, THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT GOODS.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

CATERPILLAR IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES UNLESS IMPOSED UNDER MANDATORY RIGHTS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION (CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS) IS EXCLUDED IN ITS ENTIRETY.

C) For products supplied in Australia:

IF THE PRODUCTS TO WHICH THIS WARRANTY APPLIES ARE:

I. PRODUCTS OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION; OR

II. PRODUCTS THAT COST AUD 100,000 OR LESS,

WHERE THOSE PRODUCTS WERE NOT ACQUIRED FOR THE PURPOSE OF RE-SUPPLY OR FOR THE PURPOSE OF USING THEM UP OR TRANSFORMING THEM IN THE COURSE OF PRODUCTION OR MANUFACTURE OR IN THE COURSE OF REPAIRING OTHER GOODS OR FIXTURES, THEN THIS SECTION C APPLIES.

THE FOLLOWING MANDATORY TEXT IS INCLUDED PURSUANT TO THE AUSTRALIAN CONSUMER LAW AND INCLUDES REFERENCES TO RIGHTS THE USER MAY HAVE AGAINST THE DIRECT SUPPLIER OF THE PRODUCTS: OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND COMPENSATION FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE. THE INCLUSION OF THIS TEXT DOES NOT CONSTITUTE ANY REPRESENTATION OR ACCEPTANCE BY CATERPILLAR OF LIABILITY TO THE USER OR ANY OTHER PERSON IN ADDITION TO THAT WHICH CATERPILLAR MAY HAVE UNDER THE AUSTRALIAN CONSUMER LAW.

TO THE EXTENT THE PRODUCTS FALL WITHIN THIS SECTION C BUT ARE NOT OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION, CATERPILLAR LIMITS ITS LIABILITY TO THE EXTENT IT IS PERMITTED TO DO SO UNDER THE AUSTRALIAN CONSUMER LAW TO, AT ITS OPTION, THE REPAIR OR REPLACEMENT OF THE PRODUCTS, THE SUPPLY OF EQUIVALENT PRODUCTS, OR THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT PRODUCTS.

THE WARRANTY SET OUT IN THIS DOCUMENT IS GIVEN BY CATERPILLAR INC. OR ANY OF ITS SUBSIDIARIES, 100 N. E. ADAMS ST, PEORIA, IL USA 61629, TELEPHONE 1 309 675 1000, THE USER IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH MAKING A CLAIM UNDER THE WARRANTY SET OUT IN THIS DOCUMENT, EXCEPT AS EXPRESSLY STATED OTHERWISE IN THIS DOCUMENT, AND THE USER IS REFERRED TO THE BALANCE OF THE DOCUMENT TERMS CONCERNING CLAIM PROCEDURES, CATERPILLAR RESPONSIBILITIES AND USER RESPONSIBILITIES.

TO THE EXTENT PERMISSIBLE BY LAW, THE TERMS SET OUT IN THE REMAINDER OF THIS WARRANTY DOCUMENT (INCLUDING SECTION B) CONTINUE TO APPLY TO PRODUCTS TO WHICH THIS SECTION C APPLIES.

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Effective with sales to the first user on or after July 1, 2021

CATERPILLAR LIMITED WARRANTY

Earthmoving, Construction, Material Handling, Forestry and Paving Machines

Worldwide

Caterpillar Inc. or any of its subsidiaries ("Caterpillar") warrants the following new products sold by it to be free from defects in material and workmanship:

- Earthmoving, construction, material handling, forestry and paving machines (except as listed below).
- HPU300 for use with 300.9D VPS
- Attachments/work tools installed on such machines prior to delivery (unless covered by the Cat® Work Tool warranty statement or another manufacturer's warranty). Hammer tool points and compacting plates used on hydraulic hammers are not warranted.

Additional warranties are applicable against breakage for certain Cat Ground Engaging Tools and for wear on all landfill compactor tips. Refer to the applicable warranty statements for coverage detail.

This warranty does not apply to:

- Cat Batteries
- Mobil-trac belts, rubber tracks used on multi terrain loaders, compact track loaders, and mini hydraulic excavators
- Cat Work Tools
- 424 Backhoe Loaders, 216 and 226 Skid Steer Loaders, and 320 & 323 Excavators sold in India
- Prentice brand forestry machines
- Longwall mining machines
- 777, 785, 789, 793, 794, 795, 796, 797 and 798 Off-Highway Trucks sold in regions other than the Commonwealth of Independent States ("CIS")
- 16, 18 & 24 Motor Graders sold in regions other than the CIS
- 854, 992, 993, 994 Wheel Loaders sold in regions other than CIS
- Cat Utility Vehicles (UTV)
- Compact Construction Equipment including Compact Track & Multi Terrain Loaders, Mini Hydraulic Excavators, Skid Steer Loaders, and HPU300 sold in USA or Canada.

These products are covered by other Caterpillar warranties.

This warranty is subject to the following:

Warranty Period

For new machines, HPU300, and work tools/attachments the warranty period is 12-months/unlimited hours, starting from date of delivery to the first user.

Note:

- For hydraulic line's quick connect/disconnect components sold on telehandlers, compact wheel loaders, mini hydraulic excavators, skid steer loaders, multi terrain loaders, and compact track loader machines, the warranty period is 50 hours starting from the date of delivery to the first user.
- For work tool line's quick connect/disconnect components sold on Telehandler Work Tools installed with the machine at time of sale, the warranty period is 3 months starting from date of delivery or sale to the first user.
- For Draglines, Electric Rope Shovels, Hard Rock Movers, Hard Rock Feeders, Hard Rock Miners, Hard Rock Conveyors, Hard Rock Roof Supports; the warranty period is not to exceed 24 months from shipment of the last major component from the Caterpillar place of manufacture.

Caterpillar Responsibilities

If a defect in material or workmanship is found during the warranty period, Caterpillar will, during normal working hours and at a place of business of a Cat dealer or other source approved by Caterpillar

- Provide (at Caterpillar's choice) new, remanufactured, or Caterpillar approved repaired parts or assembled components needed to correct the defect.

Note: New, remanufactured, or Caterpillar approved replacement parts provided under the terms of this warranty are warranted for the remainder of the warranty period applicable to the product in which installed as if such parts were original components of that product. Items replaced under this warranty become the property of Caterpillar.

- Replace lubricating oil, filters, antifreeze, and other service items made unusable by the defect.
- Provide reasonable and customary labor needed to correct the defect.

User Responsibilities

The user is responsible for:

- Providing proof of delivery date to the first user.
- Labor costs, except as stated under “Caterpillar Responsibilities.”
- Transportation costs, except as stated under “Caterpillar Responsibilities.”
- Premium or overtime labor costs.
- Parts shipping charges in excess of those that are considered usual and customary.
- Local taxes, if applicable.
- Costs to investigate complaints, unless the problem is caused by a defect in Caterpillar material or workmanship.
- Giving timely notice of a warrantable failure and promptly making the product available for repair.
- Performance of the required maintenance (including use of proper fuel, oil, lubricants, and coolant) and items replaced due to normal wear and tear.
- Allowing Caterpillar access to all electronically stored data.

Limitations

Caterpillar is not responsible for:

- Failures resulting from any use or installation that Caterpillar judges improper.
- Failures resulting from attachments, accessory items, and parts not sold or approved by Caterpillar.
- Failures resulting from abuse, neglect, and/or improper storage or repair.
- Failures resulting from user's delay in making the product available after being notified of a potential product problem.
- Failures resulting from unauthorized repair or adjustments, and unauthorized fuel setting changes.

PLEASE SEE IMPORTANT TERMS AND CONDITIONS ON PAGE 3 & 4

This warranty covers every major component of the products. Claims under this warranty should be submitted to a place of business of a Cat dealer or other source approved by Caterpillar. For further information concerning either the location to submit claims or Caterpillar as the issuer of this warranty, write Caterpillar Inc., 100 N.E. Adams St., Peoria, IL USA 61629, , telephone 1 (309) 675-1000, or go to URL, www.cat.com, Find Your Dealer.

Caterpillar's obligations under this Limited Warranty are subject to, and shall not apply in contravention of, the laws, rules, regulations, directives, ordinances, orders, or statutes of the United States, or of any other applicable jurisdiction, without recourse or liability with respect to Caterpillar.

A) For products operating outside of Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

NEITHER THE FOREGOING EXPRESS WARRANTY NOR ANY OTHER WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED, IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT CATERPILLAR EMISSION-RELATED COMPONENT WARRANTIES FOR NEW ENGINES, WHERE APPLICABLE. REMEDIES UNDER THIS WARRANTY ARE LIMITED TO THE PROVISION OF MATERIAL AND SERVICES, AS SPECIFIED HEREIN.

CATERPILLAR IS NOT RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

For personal or family use engines or electric power generation products, operating in the USA, its territories and possessions, some states do not allow limitations on how long an implied warranty may last nor allow the exclusion or limitation of incidental or consequential damages. Therefore, the previously expressed exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights, which vary by jurisdiction. To find the location of the nearest Cat dealer or other authorized repair facility, call (800) 447-4986. If you have questions concerning this warranty or its applications, call or write:

In USA and Canada: Caterpillar Inc, 100 N.E. Adams St., Peoria, IL USA 61629, Attention: Customer Service Manager, Telephone 1 (309) 675-1000. Outside the USA and Canada: Contact your Cat dealer, go to URL, www.cat.com, Find Your Dealer.

B) For products operating in Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

THIS WARRANTY IS IN ADDITION TO WARRANTIES AND CONDITIONS IMPLIED BY STATUTE AND OTHER STATUTORY RIGHTS AND OBLIGATIONS THAT BY ANY APPLICABLE LAW CANNOT BE EXCLUDED, RESTRICTED, OR MODIFIED ("MANDATORY RIGHTS"). ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), ARE EXCLUDED. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, WHERE A PRODUCT IS SUPPLIED FOR BUSINESS PURPOSES, THE CONSUMER GUARANTEES UNDER THE CONSUMER GUARANTEES ACT 1993 (NZ) WILL NOT APPLY.

NEITHER THIS WARRANTY NOR ANY OTHER CONDITION OR WARRANTY BY CATERPILLAR,

EXPRESS OR IMPLIED (SUBJECT ONLY TO THE MANDATORY RIGHTS), IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

IF THE MANDATORY RIGHTS MAKE CATERPILLAR LIABLE IN CONNECTION WITH SERVICES OR GOODS, THEN TO THE EXTENT PERMITTED UNDER THE MANDATORY RIGHTS, THAT LIABILITY SHALL BE LIMITED AT CATERPILLAR'S OPTION TO (a) IN THE CASE OF SERVICES, THE SUPPLY OF THE SERVICES AGAIN OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN AND (b) IN THE CASE OF GOODS, THE REPAIR OR REPLACEMENT OF THE GOODS, THE SUPPLY OF EQUIVALENT GOODS, THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT GOODS.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

CATERPILLAR IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES UNLESS IMPOSED UNDER MANDATORY RIGHTS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

C) For products supplied in Australia:

IF THE PRODUCTS TO WHICH THIS WARRANTY APPLIES ARE:

- I. PRODUCTS OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION; OR
- II. PRODUCTS THAT COST AUD 100,000 OR LESS,

WHERE THOSE PRODUCTS WERE NOT ACQUIRED FOR THE PURPOSE OF RE-SUPPLY OR FOR THE PURPOSE OF USING THEM UP OR TRANSFORMING THEM IN THE COURSE OF PRODUCTION OR MANUFACTURE OR IN THE COURSE OF REPAIRING OTHER GOODS OR FIXTURES, THEN THIS SECTION C APPLIES.

THE FOLLOWING MANDATORY TEXT IS INCLUDED PURSUANT TO THE AUSTRALIAN CONSUMER LAW AND INCLUDES REFERENCES TO RIGHTS THE USER MAY HAVE AGAINST THE DIRECT SUPPLIER OF THE PRODUCTS: OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND COMPENSATION FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE. THE INCLUSION OF THIS TEXT DOES NOT CONSTITUTE ANY REPRESENTATION OR ACCEPTANCE BY CATERPILLAR OF LIABILITY TO THE USER OR ANY OTHER PERSON IN ADDITION TO THAT WHICH CATERPILLAR MAY HAVE UNDER THE AUSTRALIAN CONSUMER LAW.

TO THE EXTENT THE PRODUCTS FALL WITHIN THIS SECTION C BUT ARE NOT OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION, CATERPILLAR LIMITS ITS LIABILITY TO THE EXTENT IT IS PERMITTED TO DO SO UNDER THE AUSTRALIAN CONSUMER LAW TO, AT ITS OPTION, THE REPAIR OR REPLACEMENT OF THE PRODUCTS, THE SUPPLY OF EQUIVALENT PRODUCTS, OR THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT PRODUCTS.

THE WARRANTY SET OUT IN THIS DOCUMENT IS GIVEN BY CATERPILLAR INC. OR

ANY OF ITS SUBSIDIARIES, 100 N. E. ADAMS ST, PEORIA, IL USA 61629, TELEPHONE 1 309 675 1000, THE USER IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH MAKING A CLAIM UNDER THE WARRANTY SET OUT IN THIS DOCUMENT, EXCEPT AS EXPRESSLY STATED OTHERWISE IN THIS DOCUMENT, AND THE USER IS REFERRED TO THE BALANCE OF THE DOCUMENT TERMS CONCERNING CLAIM PROCEDURES, CATERPILLAR RESPONSIBILITIES AND USER RESPONSIBILITIES.

TO THE EXTENT PERMISSIBLE BY LAW, THE TERMS SET OUT IN THE REMAINDER OF THIS WARRANTY DOCUMENT (INCLUDING SECTION B) CONTINUE TO APPLY TO PRODUCTS TO WHICH THIS SECTION C APPLIES.

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INVOICE



MACHINERY

MESA • PHOENIX • TUCSON • KINGMAN • FLAGSTAFF
 PRESCOTT • SHOW LOW • YUMA • IMPERIAL • LAKE HAVASU

Questions: 1-800-EMPIRE1 / (480) 633-4000

SOLD TO

CITY OF TUCSON FLEET
 FLEET DEPARTMENT-ATTENTION JIM SEEDS
 PO BOX 27210
 TUCSON AZ

SHIP TO

85726-7210

INVOICE NUMBER	INVOICE DATE	CLIENT NUMBER	CLIENT ORDER NUMBER	STORE	DIV.	SALESMAN	TERMS	PAGE
EMSL00061868	06-30-20	2206242	40493-13	00	G	CS2	2	1
AGREEMENT NUMBER	DOC. DATE	PC	LC	MC	SHIP VIA	INV. SEQ. NUMBER		
S81214	06-12-20			10		779937		
MAKE	MODEL	SERIAL NUMBER		EQUIPMENT NUMBER	METER READING	MACH. I.D. NUMBER		
AA	246D3 CA	KC601016				2.00 E158366		

CUSTOMER CONTACT: JIM SEEDS

EQUIPMENT SALE

CATERPILLAR MODEL 246D3 CA

246 CAB SKIDSTEER

1.0 ID NO: E158366 SERIAL NO: KC601016 56531.00
 PIN: *CAT0246DPKC601016*

1.0 .

WARRANTY: 36 MONTH/4000 HOUR PREMIER EPP
 TRAVEL AND MILEAGE FOR 12 MONTHS

1.0 .

EQUIPMENT SALE

CATERPILLAR MODEL 68"IG BU *

SSL- GRAPPLE BUCKET

1.0 ID NO: E159492 SERIAL NO: A419CGB30054

EQUIPMENT SALE

CATERPILLAR MODEL DEBRIS KIT *

MISC ATTACHMENTS

1.0 ID NO: E159958 SERIAL NO: KIT.E159958

EQUIPMENT SALE

CATERPILLAR MODEL TURBODBRKT *

MISC ATTACHMENTS

1.0 ID NO: E159960 SERIAL NO: KIT.E159960

EQUIPMENT SALE

CATERPILLAR MODEL 246D3 CA

246 CAB SKIDSTEER

1.0 ID NO: E159956 SERIAL NO: KC601071 56531.00
 PIN: *CAT0246DVKC601071*

TERMS: Machine sales payments are due Net 10; all others Net 30. Unless otherwise agreed in writing by a vice president of Empire Southwest, LLC ("Empire"), the purchase of goods (including, but not limited to, new and used equipment, attachments, parts and technology) or services from Empire will be governed solely by Empire's Terms and Conditions of Sales and Service (the "Sales and Service Terms"), which are available at www.empire-cat.com/salesandserviceterms, and the rental of equipment from Empire will be governed solely by Empire's Rental Terms and Conditions (the "Rental Terms"), which are available at www.empire-cat.com/rentalterms, or such other successor websites at which Empire posts its Sales and Service Terms and its Rental Terms (collectively, the "Terms") from time to time. A hard copy of the Terms is available upon written request to terms.conditions@empire-cat.com. Empire's Terms are hereby incorporated by reference into this document and all other documents related to your purchase of goods or services from Empire or the rental of equipment from Empire. By purchasing goods or services from Empire or renting equipment from Empire, you agree to be bound by Empire's Terms exactly as written.

**PAY THIS
AMOUNT USD**

Remit to: EMPIRE SOUTHWEST, LLC
 PO BOX 29879
 PHOENIX, AZ 85038-9879

When operated in California, any on-road heavy-duty diesel vehicle, alternative-diesel vehicle, off-road diesel vehicle, or portable diesel engine may be subject to the California Air Resources Board's Regulation to Reduce Particulate Matter and Criteria Pollutant Emissions from In-Use Heavy-Duty Diesel Vehicles, In-Use Off-Road Diesel Vehicle Regulation, or Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines Rated At 50 Horsepower And Greater. It therefore could be subject to retrofit, exhaust retrofit, or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board websites at <https://www.arb.ca.gov/dieseltruck>, <https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>, or <https://www.arb.ca.gov/portable/portable.htm>.

INVOICE



MACHINERY

MESA • PHOENIX • TUCSON • KINGMAN • FLAGSTAFF
 PRESCOTT • SHOW LOW • YUMA • IMPERIAL • LAKE HAVASU

Questions: 1-800-EMPIRE1 / (480) 633-4000

SOLD TO

CITY OF TUCSON FLEET
 FLEET DEPARTMENT-ATTENTION JIM SEEDS
 PO BOX 27210
 TUCSON AZ

SHIP TO

85726-7210

INVOICE NUMBER	INVOICE DATE	CLIENT NUMBER	CLIENT ORDER NUMBER	STORE	DIV.	SALESMAN	TERMS	PAGE
EMSL00061868	06-30-20	2206242	40493-13	00	G	CS2	2	2
AGREEMENT NUMBER	DOC. DATE	PC	LC	MC	SHIP VIA	INV. SEQ. NUMBER		
S81214	06-12-20			10		779937		
MAKE	MODEL	SERIAL NUMBER		EQUIPMENT NUMBER	METER READING	MACH. I.D. NUMBER		
AA	246D3 CA	KC601016				2.00 E158366		

1.0

WARRANTY: 36 MONTH/4000 HOUR PREMIER EPP
 TRAVEL AND MILEAGE FOR 12 MONTHS

1.0

EQUIPMENT SALE

CATERPILLAR MODEL 68"IG BU *
 SSL- GRAPPLE BUCKET

1.0

ID NO: E159957 SERIAL NO: A4201GB30087

EQUIPMENT SALE

CATERPILLAR MODEL DEBRIS KIT *
 MISC ATTACHMENTS

1.0

ID NO: E159959 SERIAL NO: KIT.E159959

EQUIPMENT SALE

CATERPILLAR MODEL TURBODBRKT *
 MISC ATTACHMENTS

1.0

ID NO: E159961 SERIAL NO: KIT.E159961

* ATTACHMENT WARRANTY: STANDARD MANUFACTURER'S

S.O.S. (SCHEDULED OIL SAMPLING) IS REQUIRED TO
 MAINTAIN WARRANTY ELIGIBILITY

TERMS: NET 10

STATE/COUNTY TAX

6896.78

CITY/OTHER TAX

2261.24

TERMS: Machine sales payments are due Net 10; all others Net 30. Unless otherwise agreed in writing by a vice president of Empire Southwest, LLC ("Empire"), the purchase of goods (including, but not limited to, new and used equipment, attachments, parts and technology) or services from Empire will be governed solely by Empire's Terms and Conditions of Sales and Service (the "Sales and Service Terms"), which are available at www.empire-cat.com/salesandserviceterms, and the rental of equipment from Empire will be governed solely by Empire's Rental Terms and Conditions (the "Rental Terms"), which are available at www.empire-cat.com/rentalterms, or such other successor websites at which Empire posts its Sales and Service Terms and its Rental Terms (collectively, the "Terms") from time to time. A hard copy of the Terms is available upon written request to terms.conditions@empire-cat.com. Empire's Terms are hereby incorporated by reference into this document and all other documents related to your purchase of goods or services from Empire or the rental of equipment from Empire. By purchasing goods or services from Empire or renting equipment from Empire, you agree to be bound by Empire's Terms exactly as written.

When operated in California, any on-road heavy-duty diesel vehicle, alternative-diesel vehicle, off-road diesel vehicle, or portable diesel engine may be subject to the California Air Resources Board's Regulation to Reduce Particulate Matter and Criteria Pollutant Emissions from In-Use Heavy-Duty Diesel Vehicles, In-Use Off-Road Diesel Vehicle Regulation, or Airborne Toxic Control Measure For Diesel Particulate Matter From Portable Engines Rated At 50 Horsepower And Greater. It therefore could be subject to retrofit, exhaust retrofit, or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board websites at <https://www.arb.ca.gov/dieseltruck>, <https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>, or <https://www.arb.ca.gov/portable/portable.htm>.

PAY THIS AMOUNT	USD	
		122220.02

Remit to: EMPIRE SOUTHWEST, LLC
 PO BOX 29879
 PHOENIX, AZ 85038-9879

STATEMENT



FOR INQUIRIES REGARDING THIS STATEMENT, CALL THE EMPIRE SOUTHWEST ACCOUNTS RECEIVABLE DEPARTMENT AT (800) 367-4731 EXT. 24565.

EMPIRE MACHINERY ▪ EMPIRE RENTAL ▪ EMPIRE POWER SYSTEMS ▪ EMPIRE HYDRAULIC SERVICE ▪ EMPIRE TRANSPORT ▪ EMPIRE PRECISION MACHINING

CITY OF TUCSON
PO BOX 27210
TUCSON AZ 85726-7210

0097667	09/09/21	1
CUSTOMER NUMBER	STATEMENT DATE	PAGE

TERMS: Payment is due in accordance with the terms shown on each invoice.

INVOICE DATE	INVOICE / DOCUMENT		REFERENCE	P.O. NUMBER	CHARGES	CREDITS
	TYPE	NUMBER				
04/01/21	EMWK	3120519	3360291	38720	859.98	516.75
04/07/21	EMWK	3122688	3367222	38720	430.63	
04/16/21	RTFR	400906	3354693 98CR #2.			
04/23/21	EMWK	3129062	3480724	38720	430.63	
05/27/21	EMRA	0282745	B7192802	38720	15,489.75	
06/03/21	EMWK	3149801	3484915	40493	7,074.60	2,253.77
06/04/21	EMWK	3150452	3491806	38720	722.11	
06/28/21	EMWK	3159315	3496434	38720	438.63	
06/28/21	EMWK	3159316	3497486	38720	263.18	
07/02/21	EMWK	3163837	3492566	40493	7,074.60	
07/19/21	EMWK	3169966	3505720	40493	11,472.62	
07/22/21	EMPC	0727957	02R083012	3491361		
08/02/21	EMWK	3178006	3501589	40493	6,802.50	
08/09/21	EMWK	3181021	3509532	38720	175.45	
08/09/21	EMWK	3181022	3509559	38720	263.18	
08/09/21	EMWK	3181023	3509637	38720	350.90	
08/11/21	EMWK	3182184	3508669	38720	1,301.70	
08/11/21	EMWK	3182185	3509920	38720	1,121.80	
08/11/21	EMWK	3182186	3510286	38720	545.69	
08/11/21	EMWK	3182187	3510770	38720	526.35	
08/11/21	EMWK	3182188	3510894	38720	438.63	

ARSTAT 04/08

Remit to: EMPIRE SOUTHWEST
PO BOX 842381
LOS ANGELES, CA 90084-2381
(Please include your CUSTOMER NUMBER with your remittance.)

AMOUNT DUE	
CREDIT BALANCE	

MONTHLY AGING OF UNPAID INVOICES OR CREDITS ON ACCOUNT

CURRENT	30-60 DAYS	61-90 DAYS	91-120 DAYS	OVER 120 DAYS

STATEMENT



FOR INQUIRIES REGARDING THIS STATEMENT, CALL THE EMPIRE SOUTHWEST ACCOUNTS RECEIVABLE DEPARTMENT AT (800) 367-4731 EXT. 24565.

EMPIRE MACHINERY ▪ EMPIRE RENTAL ▪ EMPIRE POWER SYSTEMS ▪ EMPIRE HYDRAULIC SERVICE ▪ EMPIRE TRANSPORT ▪ EMPIRE PRECISION MACHINING

CITY OF TUCSON
PO BOX 27210
TUCSON AZ 85726-7210

0097667	09/09/21	2
CUSTOMER NUMBER	STATEMENT DATE	PAGE

TERMS: Payment is due in accordance with the terms shown on each invoice.

INVOICE DATE	INVOICE / DOCUMENT		REFERENCE	P.O. NUMBER	CHARGES	CREDITS
	TYPE	NUMBER				
08/11/21	EMWK	3182189	3511554	38720	175.45	
08/11/21	EMWK	3182190	3511559	38720	175.45	
08/12/21	EMWK	3182760	3503390	38720	350.91	
08/12/21	EMWK	3182761	3506266	38720	626.97	
08/12/21	EMWK	3182762	3508655	38720	263.18	
08/17/21	EMWK	3184392	3507543	38720	1,767.80	
08/19/21	EMWK	3185065	3501747	38720	5,181.37	
08/19/21	EMWK	3185503	3510384	38720	2,137.38	
08/19/21	EMWK	3185504	3511542	38720	438.63	
08/19/21	EMWK	3185505	3511928	38720	263.18	
08/19/21	EMWK	3185506	3511931	38720	350.90	
08/19/21	EMWK	3185507	3511985	38720	175.45	
08/19/21	EMWK	3185508	3512162	38720	350.90	
08/19/21	EMWK	3185509	3512364	38720	701.80	
08/19/21	EMWK	3185510	3512474	38720	438.63	
08/19/21	EMWK	3185511	3512533	38720	350.90	
08/19/21	EMWK	3185512	3512998	38720	964.98	
08/25/21	EMWK	3187983	3515913	40493	10,890.90	
08/26/21	EMWK	3188520	3506796	38720	934.78	
08/26/21	EMWK	3188521	3511143	38720	4,869.55	
08/26/21	EMWK	3188522	3513233	38720	2,294.08	

ARSTAT 04/08

Remit to: EMPIRE SOUTHWEST
PO BOX 842381
LOS ANGELES, CA 90084-2381
(Please include your CUSTOMER NUMBER with your remittance.)

AMOUNT DUE	
CREDIT BALANCE	

MONTHLY AGING OF UNPAID INVOICES OR CREDITS ON ACCOUNT

CURRENT	30-60 DAYS	61-90 DAYS	91-120 DAYS	OVER 120 DAYS

STATEMENT



FOR INQUIRIES REGARDING THIS STATEMENT, CALL THE EMPIRE SOUTHWEST ACCOUNTS RECEIVABLE DEPARTMENT AT (800) 367-4731 EXT. 24565.

EMPIRE MACHINERY ▪ EMPIRE RENTAL ▪ EMPIRE POWER SYSTEMS ▪ EMPIRE HYDRAULIC SERVICE ▪ EMPIRE TRANSPORT ▪ EMPIRE PRECISION MACHINING

CITY OF TUCSON
PO BOX 27210
TUCSON AZ 85726-7210

0097667	09/09/21	3
CUSTOMER NUMBER	STATEMENT DATE	PAGE

TERMS: Payment is due in accordance with the terms shown on each invoice.

INVOICE DATE	INVOICE / DOCUMENT		REFERENCE	P.O. NUMBER	CHARGES	CREDITS
	TYPE	NUMBER				
08/27/21	EMWK	3189059	3514300	38720	175.45	
08/30/21	EMWK	3189703	3510054	38720	525.46	
08/30/21	EMWK	3189704	3512771	38720	1,392.32	
08/31/21	EMWK	3192233	3513623	38720	1,643.89	
09/02/21	EMWK	3193188	3514582	38720	350.90	
09/02/21	EMWK	3193189	3514626	38720	207.51	
09/02/21	EMWK	3193190	3514953	38720	757.36	
09/02/21	EMWK	3193191	3515078	38720	350.90	
09/02/21	EMWK	3193192	3518331	40493	12,781.51	
09/02/21	EMWK	3193193	3518345	40493	12,112.35	
09/02/21	EMCT	0018412	A9983157		6,358.50	
09/02/21	EMCT	0018413	B1537344		10,531.84	
09/02/21	EMCT	0018414	B4306724		3,058.60	
09/02/21	EMCT	0018415	B5202417	40493/TM&R	4,285.38	
09/02/21	EMCT	0018416	B6191611	40493/TM&R	9,910.64	
09/02/21	EMCT	0018417	B7386403	38720	450.00	
09/03/21	EMWK	3193535	3509699	40493	7,618.80	
09/03/21	EMWK	3193536	3509724	38720	1,360.60	
09/07/21	EMWK	3194161	3513753	38720	182.73	
09/07/21	EMWK	3194162	3513760	38720	186.37	
09/07/21	EMWK	3194163	3514875	38720	350.90	

ARSTAT 04/08

Remit to: EMPIRE SOUTHWEST
PO BOX 842381
LOS ANGELES, CA 90084-2381
(Please include your CUSTOMER NUMBER with your remittance.)

AMOUNT DUE	190,315.35
CREDIT BALANCE	

MONTHLY AGING OF UNPAID INVOICES OR CREDITS ON ACCOUNT

141,237.11	16,810.88	7,776.41	23,286.46	1,204.49
CURRENT	30-60 DAYS	61-90 DAYS	91-120 DAYS	OVER 120 DAYS

STATEMENT



FOR INQUIRIES REGARDING THIS STATEMENT, CALL
THE EMPIRE SOUTHWEST ACCOUNTS RECEIVABLE
DEPARTMENT AT (800) 367-4731 EXT. 24565.

EMPIRE MACHINERY ▪ EMPIRE RENTAL ▪ EMPIRE POWER SYSTEMS ▪ EMPIRE HYDRAULIC SERVICE ▪ EMPIRE TRANSPORT ▪ EMPIRE PRECISION MACHINING

CITY OF TUCSON
PO BOX 27210
TUCSON AZ 85726-7210

0097667	09/09/21	4
CUSTOMER NUMBER	STATEMENT DATE	PAGE

**TERMS: Payment is due in accordance
with the terms shown on each invoice.**

INVOICE DATE	INVOICE / DOCUMENT		REFERENCE	P.O. NUMBER	CHARGES	CREDITS
	TYPE	NUMBER				
09/07/21	EMWK	3194164	3515144	38720	526.35	
09/08/21	EMWK	3194841	3509727	38720	2,191.21	
09/08/21	EMWK	3194842	3509730	38720	425.58	
09/08/21	EMWK	3194843	3509737	38720	272.11	
09/08/21	EMWK	3194844	3509742	38720	1,353.45	
09/08/21	EMWK	3194845	3509747	38720	1,428.62	
09/08/21	EMWK	3194846	3509749	38720	2,983.39	
09/08/21	EMWK	3194847	3509750	38720	2,756.89	
09/08/21	EMWK	3194848	3509753	38720	272.12	
09/08/21	EMWK	3194849	3509754	38720	680.30	
09/08/21	EMWK	3194850	3509756	38720	476.21	
09/08/21	EMWK	3194851	3509758	38720	2,108.80	
09/08/21	EMWK	3194852	3515176	38720	526.35	
09/08/21	EMWK	3194856	3515701	38720	1,080.04	
09/08/21	EMWK	3194857	3520127	38720	2,112.34	
09/08/21	EMRA	0292827	B7671401	38720	9,813.98	

ARSTAT 04/08

Remit to: EMPIRE SOUTHWEST
PO BOX 842381
LOS ANGELES, CA 90084-2381
(Please include your CUSTOMER NUMBER with your remittance.)

AMOUNT DUE	190,315.35
CREDIT BALANCE	

MONTHLY AGING OF UNPAID INVOICES OR CREDITS ON ACCOUNT

141,237.11	16,810.88	7,776.41	23,286.46	1,204.49
CURRENT	30-60 DAYS	61-90 DAYS	91-120 DAYS	OVER 120 DAYS



SAFETY • RESPECT • INTEGRITY • TEAMWORK
EXCELLENCE • STEWARDSHIP • ASTONISHMENT

PAGE 1 OF 1	
INVOICE #	EMWK3193535
Client PO #	40493
Client #	0097667
Invoice Date	09-03-21
AGMT/PSO/WO #	3509699

EM - TUCSON

2

SOLD TO

CITY OF TUCSON
ATTENTION JIM SEEDS
PO BOX 27210
TUCSON AZ

INITIAL SHIP TO

85726-7210

ORDER BY: GEORGE FREDRICKS

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACH. I.D. NUMBER
AA	MANY	FUEL		1.0	
QUANTITY	ITEM	*NON-RETURNABLE	DESCRIPTION	UNIT PRICE	EXTENSION

* * *

INVOICE SUMMARY

* * *

THANK YOU FOR CHOOSING THE EMPIRE SERVICE
SOLUTION, WE VALUE YOUR BUSINESS. IF YOU HAVE
QUESTIONS ABOUT THIS INVOICE, PLEASE CONTACT MEGAN
BURTON AT (520) 730-4778 OR 1-800-EMPIRE1.

EMPIRE IS PROUD TO BE THE LEADING DEALER PROVIDING
SECOND LIFE AND CUSTOM MACHINE REBUILDS AT 40 TO
60% THE COST OF A NEW MACHINE.

*

DELIVER FUEL
28X272.10=7618.80
*

TOTAL LABOR 7618.80 *
SEGMENT 02 TOTAL 7618.80 T

LABOR INVOICE TOTAL 7618.80 *

TERMS: Machine sales payments are due Net 10; all others Net 30. Unless otherwise agreed in writing by a vice president of Empire Southwest, LLC ("Empire"), the purchase of goods (including, but not limited to, new and used equipment, attachments, parts and technology) or services from Empire will be governed solely by Empire's Terms and Conditions of Sales and Service (the "Sales and Service Terms"), which are available at www.empire-cat.com/salesandserVICeterms, and the rental of equipment from Empire will be governed solely by Empire's Rental Terms and Conditions (the "Rental Terms"), which are available at www.empire-cat.com/rentalterms, or such other successor websites at which Empire posts its Sales and Service Terms and its Rental Terms (collectively, the "Terms") from time to time. A hard copy of the Terms is available upon written request to terms.conditions@empire-cat.com. Empire's Terms are hereby incorporated by reference into this document and all other documents related to your purchase of goods or services from Empire or the rental of equipment from Empire. By purchasing goods or services from Empire or renting equipment from Empire, you agree to be bound by Empire's Terms exactly as written.

PAY THIS AMOUNT	7618.80
CREDIT AMOUNT	

Remit to: EMPIRE SOUTHWEST, LLC
PO BOX 842381
LOS ANGELES, CA 90084-2381
Page 296 of 653



SAFETY • RESPECT • INTEGRITY • TEAMWORK
EXCELLENCE • STEWARDSHIP • ASTONISHMENT

INVOICE #	EMWK3194844
Client PO #	38720
Client #	0097667
Invoice Date	09-08-21
AGMT/PSO/WO #	3509742

2

SOLD TO

CITY OF TUCSON
ATTENTION JIM SEEDS
PO BOX 27210
TUCSON AZ

INITIAL SHIP TO

85726-7210

ORDER BY: GEORGE FREDRICKS

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACH. I.D. NUMBER
AA	980K	OW7K00927	7923	12601.0	E114828
QUANTITY	ITEM	*NON-RETURNABLE	DESCRIPTION	UNIT PRICE	EXTENSION

THANK YOU FOR CHOOSING THE EMPIRE SERVICE
SOLUTION, WE VALUE YOUR BUSINESS. IF YOU HAVE
QUESTIONS ABOUT THIS INVOICE, PLEASE CONTACT MEGAN
BURTON AT (520) 730-4778 OR 1-800-EMPIRE1.

EMPIRE IS PROUD TO BE THE LEADING DEALER PROVIDING
SECOND LIFE AND CUSTOM MACHINE REBUILDS AT 40 TO
60% THE COST OF A NEW MACHINE.

*

CLEAN MACHINE

CLEANING FOR THE MONTH OF AUGUST 2021

*

8/2/2021 FLB 0.5 LUBE RATE
8/3/2021 FLB 0.5 LUBE RATE
8/5/2021 FLB 0.5 LUBE RATE
8/6/2021 FLB 0.5 LUBE RATE
8/9/2021 FLB 0.5 LUBE RATE
8/10/2021 FLB 0.5 LUBE RATE
8/12/2021 FLB 0.5 LUBE RATE
8/13/2021 FLB 0.5 LUBE RATE
8/16/2021 FLB 0.5 LUBE RATE
8/17/2021 FLB 0.5 LUBE RATE
8/18/2021 FLB 0.5 LUBE RATE
8/19/2021 FLB 0.5 LUBE RATE
8/20/2021 FLB 0.5 LUBE RATE
8/23/2021 FLB 0.5 LUBE RATE
8/24/2021 FLB 0.5 LUBE RATE
8/25/2021 FLB 0.5 LUBE RATE
8/27/2021 FLB 0.5 LUBE RATE
8/30/2021 FLB 0.5 LUBE RATE
8/31/2021 FLB 0.5 LUBE RATE

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PAY THIS AMOUNT	CONT'D
CREDIT AMOUNT	

Remit to: EMPIRE SOUTHWEST, LLC
PO BOX 842381
LOS ANGELES, CA 90061-2381
Page 297 of 653



SAFETY • RESPECT • INTEGRITY • TEAMWORK
EXCELLENCE • STEWARDSHIP • ASTONISHMENT

INVOICE #	EMWK3194844
Client PO #	38720
Client #	0097667
Invoice Date	09-08-21
AGMT/PSO/WO #	3509742

SOLD TO

CITY OF TUCSON
ATTENTION JIM SEEDS
PO BOX 27210
TUCSON AZ

INITIAL SHIP TO

85726-7210

ORDER BY: GEORGE FREDRICKS

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACH. I.D. NUMBER
AA	980K	OW7K00927	7923	12601.0	E114828
QUANTITY	ITEM	*NON-RETURNABLE	DESCRIPTION	UNIT PRICE	EXTENSION

*

FLD LUBE - REVE	7.50 RT HOURS	1020.45
FLD LUBE - REVE	2.00 RT HOURS	272.12

TOTAL LABOR	SEG. 90	1292.57 *
-------------	---------	-----------

14.00	GREASE - LB	56.00
-------	-------------	-------

TOTAL MISC CHGS	SEG. 90	56.00 *
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SEGMENT 90 SEQNO 90 TOTAL	1348.57 T
---------------------------	-----------

STATE/COUNTY TAX	3.42 T
CITY/OTHER TAX	1.46 T

TERMS: Machine sales payments are due Net 10; all others Net 30. Unless otherwise agreed in writing by a vice president of Empire Southwest, LLC ("Empire"), the purchase of goods (including, but not limited to, new and used equipment, attachments, parts and technology) or services from Empire will be governed solely by Empire's Terms and Conditions of Sales and Service (the "Sales and Service Terms"), which are available at www.empire-cat.com/salesandserVICETerms, and the rental of equipment from Empire will be governed solely by Empire's Rental Terms and Conditions (the "Rental Terms"), which are available at www.empire-cat.com/rentalterms, or such other successor websites at which Empire posts its Sales and Service Terms and its Rental Terms (collectively, the "Terms") from time to time. A hard copy of the Terms is available upon written request to terms.conditions@empire-cat.com. Empire's Terms are hereby incorporated by reference into this document and all other documents related to your purchase of goods or services from Empire or the rental of equipment from Empire. By purchasing goods or services from Empire or renting equipment from Empire, you agree to be bound by Empire's Terms exactly as written.

PAY THIS AMOUNT	1353.45
CREDIT AMOUNT	

Remit to: EMPIRE SOUTHWEST, LLC
PO BOX 842381
LOS ANGELES, CA 90084-2381
Page 2 of 3



City of Tucson

License Certificate

Business Name and Mailing Address:

EMPIRE SOUTHWEST LLC
PO BOX 2985
PHOENIX AZ 85062-2985

License Number: 3006282

Type: NAICS Code Not Yet Assigned

Issue Date: April 22, 2021

Expiration Date: December 31, 2021

Owner:

EMPIRE SOUTHWEST LLC

This license / permit is **non-transferable** and must be posted in a conspicuous place at the business location.

THE ISSUANCE OF THIS LICENSE / PERMIT SHALL NOT BE CONSTRUED AS PERMISSION TO OPERATE IN VIOLATION OF ANY LAW OR REGULATION.

FOLD HERE

CITY OF TUCSON, ARIZONA

LICENSE SECTION

Expiration Date: December 31, 2021



Non-Transferable

3006282

**MUST BE DISPLAYED IN
A CONSPICUOUS PLACE**

Business License

For the payment of the license fee, the person or firm below is hereby licensed to conduct business in the City of Tucson. Tax accruing to the City of Tucson shall be paid under provisions of Ch. 19, Tucson City Code. This license is subject to revocation for violation of Ch. 7 or Ch. 19 of the Tucson City Code.

Issued To: EMPIRE SOUTHWEST LLC

Located At: 7600 S NOGALES HY, TUCSON, AZ 85756

Effective: January 01, 2021

Please refer to license number in all correspondence.

By

Director, Business Services

ADDITIONAL SERVICES INCLUDED IN THIS RFP**Parts Pricing**

The City of Tucson's current parts pricing is available online at parts.cat.com.

Please visit this website using your Caterpillar CWS login to view the City of Tucson's parts prices.

Oil Sampling

There is no stated discount off list for this product offering. Depending on the quantity, order volume discounts may be available.

Maintenance Plans

Empire offers a variety of maintenance plans available on this contract. There is no stated discount off list for this product offering. Empire will offer the City of Tucson, and other participating agencies, any and all discounts that are available at the time we are requested to quote any and all maintenance plans. Maintenance plans need to be custom built as pricing can vary by the hours of usage, machine model, machine location and the types and quantity of fluids used.

Training – Operator and Service

Empire offers multiple training programs that can be tailored to the City of Tucson and other participating agency's needs.

There is no stated discount off list for this product offering. Empire will offer any and all discounts that are available at the time we are requested to quote any and all training programs.

Service Related Repairs/Rebuilds

All service related repairs and/or services, including rebuilds, are available on this contract.

There is no stated discount off list for this product offering. All service related repairs and/or rebuilds will be quoted utilizing any and all discounts that are available at that time.

Financing

Financing options are available on this contract. Depending on the type of financing, Empire will shop rates with a minimum of three (3) lenders to offer the best rates possible.

Telematics Installs – Subscription Fees/Software Updates/Technology Updates

Updating, and/or adding technology, fees for subscriptions, or updates is included in this contract. There is no stated discount off list for this product offering. Empire will provide quotes upon request and offer any and all discounts that are available at that time.

Transport

Empire transport has the ability to move the largest to smallest freight for the City of Tucson and other participating agencies. There is no stated discount off list for this product. Empire will apply any and all discounts on freight services at the time we are requested to quote.

New or Future Services

For any new or future service(s), that is not included in our response, we will provide the City of Tucson a written letter requesting approval to add any new services we provide. We will include a detailed description of the type of service(s) we offer, as well as any stated discounts (if applicable) that would be available to the City of Tucson and to other participating agencies.

OMNIA PARTNERS TRADEMARK LICENSE ADDENDUM

This Addendum is by and between OMNIA PARTNERS, 840 Crescent Centre Dr, Suite 600, Franklin, TN 37067 ("OMNIA") and Caterpillar Inc., having its principal place of business at 510 Lake Cook Road, Suite 100, Deerfield, Illinois 60015, and offices at 100 NE Adams Street, Peoria, Illinois, 61629 ("Caterpillar" or "Vendor"). Omnia and Caterpillar may be referred to in this Agreement as a "Party" and collectively as the "Parties."

The Parties maintain a contractual relationship for Vendor to offer for sale equipment, products, and/or services to OMNIA and entities that access OMNIA'S cooperative purchasing contracts ("Contract").

OMNIA and Vendor each own all right, title, and interest in their respective names, trademarks, service marks, related logos, and all other rights in the names, designs, likenesses, and visual representations thereof ("Licensed Trademarks"), and desire to grant each other a royalty-free license to use certain Licensed Trademarks owned by the other Party under the terms and conditions set forth herein.

A. GRANT OF LICENSE. During the term of the Contract:

1. OMNIA grants to Vendor a royalty-free, worldwide, non-exclusive, non-transferable right and license to use OMNIA's Licensed Trademarks in advertising and promotional materials for the purpose of marketing OMNIA's relationship with Vendor.
2. Vendor grants to OMNIA a royalty-free, non-exclusive, nontransferable right and license to use Vendor's Licensed Trademarks in the United States in advertising and promotional materials for the purpose of marketing Vendor's relationship with OMNIA.

C. OWNERSHIP; USE; QUALITY CONTROL.

1. The Parties agree that each is the owner of all rights, including without limitation common law rights and goodwill, in relation to their respective Licensed Trademarks, and that any goodwill derived from the use of Licensed Trademarks by the other Party shall inure to the owner of the respective Licensed Trademarks.
2. Neither Party may alter the other Party's Licensed Trademarks from the form and use guidelines provided by the other Party, and must comply with the other Party's removal requests as to specific uses of its Licensed Trademarks.
3. Each Party agrees to use the other Party's Licensed Trademarks only in good faith and in a dignified manner consistent with such Party's use of the Licensed Trademarks. Upon written notice to the breaching Party, the breaching Party have thirty (30) days of the date of the written notice to cure the breach or the license will be terminated.

3. Beyond what is permitted in this Addendum, neither Party will:

- a. attempt to register, or register any trademark, service mark, symbol, logo, get-up, or device which is confusingly similar to any of the other Party's Licensed Trademarks in any jurisdiction;
- b. represent that it has any rights of any nature in the Licensed Trademarks other than those enjoyed under the terms of this Agreement;
- c. use the other Party's trademarks, service marks or copyrights, translations thereof or marks similar thereto, as part of its corporate name, trade name or a d/b/a name, favicons, social media names/handles, email addresses, email extensions, or domain names without prior written approval from the other Party; or
- d. use the other Party's trade names, trademarks, or service marks on any collateral business materials (e.g., business cards, letterhead, invoices, pens, notepads, fax cover sheets, etc.), unless otherwise approved in writing by the other Party.

D. EFFECTIVE DATE. This Addendum is effective upon the date of the final signature below.

E. TERMINATION.

1. Contract Termination. Unless earlier terminated in accordance with this Section E, this Addendum expires immediately upon the expiration or termination of the Contract.
2. Termination for Convenience. This Addendum may be terminated by either Party at any time upon ninety (90) days' prior written notice to the other Party.
3. Termination for Breach. This Addendum may be terminated by either Party upon a breach of the terms of this Addendum by the other Party, upon written notice of breach to the breaching Party, and only if such breach is not cured within thirty (30) days of the date of the written notice.
4. Effect of Termination. Upon the termination of this Addendum for any reason, each Party will have thirty (30) days to, remove all Licensed Trademarks from signage, websites, and the like bearing the other Party's name or logo (except OMNIA's pre-printed catalog of vendors which may be used until the next printing). Upon termination of this Addendum, both Parties shall cease using the other Party's mark on any new advertising or promotional materials.

F. MISCELLANEOUS. The terms and conditions of this Addendum shall have no effect on the terms and conditions of any other trademark licenses signed by the Parties. All other terms of the Contract remain in full force and effect, unless otherwise terminated.

OMNIA PARTNERS

By: _____

Printed Name: _____

Title: _____

Date: _____

CATERPILLAR INC.

DocuSigned by:
By: Patrick Kearns
68A87926721B4E0...

Printed Name: Patrick Kearns

Title: North America Industry Manager

Date: September 10, 2021

Contract # 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

Negotiated Contract Exceptions

City of Tucson- RFP #212816
EXCEPTIONS REQUEST
Caterpillar Inc.
September 10, 2021
Caterpillar Response to "Intent to Negotiate Request" - dated 2/28/2022
City of Tucson Response to MS Teams meeting held on 3/25/2022
City of Tucson - all inclusive response to Caterpillar Exceptions - dated July 14, 2022
Caterpillar responses - dated July 29, 2022

B. SCOPE OF WORK

B.1.GENERAL REQUIREMENTS

5. **TRAINING:** The Contractor or **Participating Dealer** shall provide, at no additional cost, training at initial purchase for each basic unit of equipment purchased. Training shall be supplied in one or both options as listed below. This training shall be adequate to the needs of the typical equipment operator and service technician in order to assure proper operation, utilization and maintenance of the equipment supplied. Any manuals necessary to perform the required training shall be furnished by the Contractor or **Participating Dealer**. The trainer shall be factory-trained and thoroughly knowledgeable in equipment operator and service technician functions. Training shall be presented in a quality suitable for videotaping.

TRAINING OPTIONS SPECIFIC TO THE CITY OF TUCSON ONLY

A) The City reserves the right to videotape the initial training at no additional cost to the City of Tucson, to be used by the City as a training tool for new City employees. The City will not transfer, share or post any material, other than for the City's internal use.

B) Initial machine delivery training will be provided at no cost to the City as indicated above. Any additional training requirements will be met by the **Participating Dealer** for an additional fee.

6. **REPAIRS:** The Contractor or a **Participating Dealer** will be responsible for transport of vehicles to and from its place of business for repairs, at no additional cost to the City, until such time as the City places the vehicle in service. Transport of the vehicle will not be delayed more than one (1) working day from the date of notification, unless both the City and the Contractor or **Participating Dealer** mutually agree to change the date of transport.
7. **WARRANTIES:** Offeror shall warrant that all equipment and parts furnished in their offer are newly manufactured and free from defects in material and workmanship from the date the City places the equipment into service. Warranty shall also guarantee accepted trade standards of quality, fitness for the intended uses and conformance to written specifications. No other express or implied warranty shall eliminate the vendor's liability as stated herein.
8. **SERVICE AND MAINTENANCE:** Contractor or **Participating Dealer** will provide and maintain a factory authorized parts and service facility within a reasonable distance to the purchasing location.

For the City, the parts and service facility must be within a 125-mile radius of the City of Tucson Price Service Center (4004 S. Park Avenue, 85714).

If warranty service is not provided on-site, the **Participating Dealer** shall be responsible for all costs, including fuel and labor of transporting vehicle(s) between the City's facility and the **Participating Dealer** service center. The method of transportation must be mutually agreed to by the **Participating Dealer** and the City prior to transport.

For service calls, the **Participating Dealer** must provide a response within 60 minutes.

B.2. EQUIPMENT AND PRODUCT REQUIREMENTS

1.EQUIPMENT

A) Equipment and Product Availability: It is mutually agreed that not all equipment and products are available through this contract at all Participating Dealer locations. Participating Agencies will need to check with their Local Participating Dealer to see which equipment and products from this contract are available.

- 4. PRICING:** Offerors shall provide a verifiable pricing model that may include, but not be limited to, a discount from a verifiable price index, a reduced net pricing schedule, a hybrid or other supplier specific pricing model. The pricing model shall remain firm and will include all charges that maybe incurred in fulfilling requirement(s) for the twelve (12) -month period following contract award. Where applicable, pricing shall be determined by applying Offerors discounts to the prices listed on their manufacturer's price lists, retail price sheets, catalogs or by utilizing the reduced net pricing schedule.

For the avoidance of doubt, a purchaser may request a product price page from a Local Authorized Participating Caterpillar Dealer. The purchaser may verify the accuracy of that price page, to the extent it deems necessary, by contacting Caterpillar's GCI Government Contracts group.

Special Offers/Promotions:

In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, Contractor may conduct sales promotions involving price reductions for a specified lesser period. Contractor may offer Participating Public Agencies competitive pricing which is lower than the not-to exceed price set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract. Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

B.3.SERVICE REQUIREMENTS

1.SERVICES

- b. Maintenance Services:** The ability to provide various maintenance services and options through authorized manufacturer's facilities or dealers. Maintenance services may include scheduled services based upon the manufacturer's recommended guidelines to include, but not be limited to daily scheduled services, daily fuel dispensing, major/minor machine cleaning, etc. Maintenance Services may also include mobile maintenance.

- i. City of Tucson Landfill Equipment under Warranty or Extended Warranty and/or Maintenance Services:** If in the event, a piece of landfill equipment goes down and the City has purchased the maintenance services from a Local Authorized Participating Caterpillar Dealer and if the failure is one that is covered under a purchased manufacturer warranty or extended warranty, and is projected to be down for more than forty-eight (48) hours by the Local Authorized Participating Caterpillar Dealer, then a loaner of comparable type will be provided at no charge to the City.
- ii. City of Tucson Loaner Landfill Equipment:** In the event, a piece of landfill equipment goes down and a piece of "loaner" equipment is available, then the City of Tucson will be responsible for the freight cost, cleaning (including the labor cost), any damage (if applicable) and fuel. If, at the time of the event, a comparable type is not available, the City of Tucson and the Local Authorized Participating Caterpillar Dealer will work together to determine the City's loaner equipment requirements, to ensure that the effect on day-day landfill operations is minimized.

NOTE: The loaner provisions apply solely to the City of Tucson unless otherwise offered/promoted/negotiated, in writing, to OMNIA Member agencies by the Local Authorized Participating

Caterpillar Dealer.

C. INSTRUCTIONS TO OFFERORS

C.1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION

Participating Dealer: Local Authorized Participating Caterpillar Dealer (LAPCD), as per Caterpillar Subcontract Agreement, attached as Subcontract Agreement for Government and Other Cooperative Purchasing Contracts between (dealer) and Caterpillar Inc.

C.10. EXCEPTIONS TO CONTRACT PROVISIONS

A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or designee, the contract provisions contained in the City's Request for Proposal shall prevail.

C.11. PUBLIC RECORD

All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification to the extent required by law as defined in the Standard Terms and Conditions and as applicable to the law of the State of Arizona.

C.12. CONFIDENTIAL INFORMATION

The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

C.22. CITY OF TUCSON BUSINESS LICENSE

It is the responsibility of the Contractor or applicable Participating Dealer to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email tax-license@tucsonaz.gov.

F. SPECIAL TERMS AND CONDITIONS

F.6. PRICE ADJUSTMENT

The City will review fully documented requests for pricing model adjustment after any Contract has been in effect for twelve (12) months, as per Section B.2.4. of this Contract.

- a) Following the initial term of the contract, the Contractor may request to implement new pricing model bi-annually, every six (6) months, during the calendar year.
- b) The Contractor and the City will mutually agree to a proposed pricing model. The Contractor will provide the City a minimum of thirty (30) days advance notice, from the proposed effective date.
- c) Any pricing model adjustments may be considered as a factor in the contract renewal/extension process.
- d) However, the Contractor must maintain the minimum discount offered for all items, throughout the term of the contract unless mutually agreed by the parties or the change is not detrimental to the City.
- e) Discount structure may only be unilaterally adjusted by Contractor in the event the Contractor is making an adjustment favorable to the City.
- f) The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the date of the Contract extension.

F.7. MODIFICATION OF TERMS

A Participating Agency who wishes to piggyback on this Contract may present alternate terms to the applicable Participating Dealer as a condition of their intended purchase transaction. If the Participating Dealer chooses to accept the alternate terms, it shall be as a condition of the Participating Agency's purchase transaction and shall not constitute a modification of this contract.

H. STANDARD TERMS AND CONDITIONS

H.15. EXCLUSIVE POSSESSION

All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.

H.30. PAYMENT

The City's preferred method of payment is via credit card. However, certain Participating Dealers do not accept credit cards. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary, or in case Participating Dealers do not accept credit card payment.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

H.34. RIGHT TO AUDIT

The City and its authorized representatives shall have the right, upon reasonable written notice to Contractor, to cause an audit to be made of the Contractor's books and records which relate to its operations under this Contract. The audit shall be limited to the term of this Contract. The City shall have the right to examine and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Contract kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and subcontractors. Such records shall include, but not be limited to, accounting records, subcontractor records, payment vouchers and

invoices.

The Contractor shall at any time requested by City, whether during or after completion of this Contract, and at Contractor's own expense make such records available for inspection and audit (including copies and extracts of records as required) by City. Such records shall be made available to City during normal business hours at the Contractor's office, place of business, an agreed to location, mailed or provided electronically.

If, as a result of such audit, the Contractor is liable to the City for the payment of any sum, Contractor shall promptly pay such sum to the City together with interest thereon at the rate of one percent (1%) per month from the date such sums should have been paid. Payment shall be made within 90 days from presentation of City's findings to Contractor.

If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, City may recoup the costs of the audit work from the Contractor. The City's rights under this provision shall survive the expiration or termination of the Contract.

H.42 TERMINATION OF CONTRACT

This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, which failure the contractor has not commenced to remedy within thirty (30) days of receipt of notice of such failure. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

- In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;
- In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;
- In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;
- The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;
- In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;
- The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.
- Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

G. INSURANCE REQUIREMENTS

G.1.The Contractor agrees to: Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least **thirty (30) calendar** days prior to termination, cancellation, or reduction in coverage in any policy. Contractor and the Applicable Dealer, agree to make a best effort to comply with the thirty (30) day notice. Such notice shall be sent directly to the Procurement Division.

G.8.Notice of Coverage Modifications: Any changes material to compliance with this contract in the insurance policies above shall require **thirty (30) days** written notice from the Applicable Dealer to the City of Tucson. Contractor and the Applicable Dealer, agree to make a best effort to comply with the thirty (30) day notice. Such notice shall be sent directly to the Procurement Division.

G.11. Participating Dealer: Contractor shall furnish to the City of Tucson separate certificates and endorsements for the Local Authorized Participating Caterpillar Dealer, (Empire Southwest, LLC). All coverages for the Local Authorized Participating Caterpillar Dealer shall be subject to the minimum requirements identified above.

H.20 INDEMNIFICATION

THE CITY OF TUCSON, CONTRACTOR AND PARTICIPATING DEALER EACH HEREBY WAIVE, REGARDLESS OF CAUSE, ANY CLAIM WHATSOEVER AGAINST THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST OR ANTICIPATED REVENUES OR PROFITS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF GOODWILL OR BUSINESS INTERRUPTION) ARISING OUT OF A BREACH OF THIS AGREEMENT BY ANOTHER PARTY OR THE RENTAL EQUIPMENT, ON ANY THEORY OF LIABILITY EVEN IF CATERPILLAR, CUSTOMER OR PARTICIPATING DEALER IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Contract # 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

Request for Clarification



Caterpillar Inc.

100 NE Adams St.
Peoria, IL 61629

December 1, 2021

To: Cynthia Thompson, NIGP-CPP, CPPB
Principal Contract Officer
City of Tucson Business Services Department

Subject: Response to Request for Clarification
Request for Proposal no. 212816 Heavy Equipment, Parts, Accessories, Supplies and
Related Services

Dear Ms. Thompson,

Thank you for your request for clarification regarding our proposal for RFP 212816. We have engaged with the local dealer, Empire Machinery, to answer your questions as they were very specific to the Los Reales Landfill. Please find the response in the additional attachment.

As a reminder, Empire is the local dealer for the City of Tucson. The responses they have submitted may not apply to other agencies found in other local dealer territories. The answers would be specific to the needs of the local agencies and the capabilities of the local Cat Dealers.

We look forward to hearing from you as you bring your evaluations to a close.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tiren Pavelka". The signature is written in a cursive, flowing style.

Tiren Pavelka
Caterpillar Inc.
Government Sales Account Manager
100 NE Adams St
Peoria, IL 61629
Pavelka_tiren_l@cat.com
309-675-1589



December 1, 2021

To: Cynthia Thompson, NIGP-CPP, CPPB
Principal Contract Officer
City of Tucson Business Services Department

Subject: Empire Southwest, LLC – Response to Request for Clarification
Request for Proposal no. 212816 Heavy Equipment, Parts, Accessories Supplies and Related Services

Question #1: What is the rental availability for a Waste Handler Compactor and Dozer, the same size and type of model currently used at the Los Reales Landfill, within 24 – 48 hours, upon request?

EMPIRE RESPONSE

With the current availability issues that all manufacturers are facing today, Empire is not able to state with 100% confidence that we can provide a rental solution, within 24 – 48 hours, for a Waste Handler Compactor, or a Waste Handler Dozer.

Typically, Empire does not stock Landfill Compactors or Waste Handler Dozers in our standard rental fleet, but that doesn't mean we don't rent Landfill Compactors or Waste Handler Dozers to our clients.

We currently own one (1) 836 size Compactor (same size as used at Los Reales Landfill) that is available to rent, but as of today it is on rent to another client. We have no Waste Handler Dozers available in stock at this time, but are actively looking for another Waste Handler Dozer to add to our inventory.

Over the last four (4) years, Empire has owned five (5) Landfill Compactors and five (5) Waste Handler Dozers that either were, or could be available, for rent to provide relief to landfills when they were in need of a rental machine.

In the event Empire does not have a waste handling machine available in stock for the City of Tucson, Empire will use every resource possible to locate a machine including, but not limited to:

- Empire will leverage every relationship we have, with other local Governmental landfill clients, and attempt to re-rent a machine from them to help provide a rental machine to the City of Tucson. We have been successful with this approach, numerous times with other Governmental agencies.
- Empire will leverage every relationship we have with other CAT Dealers, as well as other suppliers, to search for a machine to re-rent to the City of Tucson.

Empire supports the majority of landfills in Arizona and has historically been relied upon to provide the best solutions to our Governmental clients when a waste handling machine is down for repairs, or when a rental machine is needed.

Question #2: What is the transport fee per mile, including fuel charges, to transport a Waste Handler Compactor and Dozer, to the Los Reales Landfill?

EMPIRE RESPONSE

The cost per hour calculation is based on the machine being located at Empire's facility in Eloy, Arizona.

- 836 Landfill Compactor cost per hour, including fuel, is \$25.00 per mile
- D9 Waste Handler Dozer cost per mile, including fuel, is \$20.00 per mile

Question #3: What are the loading and unloading fees for a Waste Handler Compactor and Dozer the same size and type of model currently used at the Los Reales Landfill?

EMPIRE RESPONSE

Empire rental rates include these charges.

Question #4: Provide a Sample Quote which includes responses to questions 1, 2 and 3 for evaluation.

EMPIRE RESPONSE

The sample quote that is provided is for a machine that Empire owns. If Empire does not have a waste handling machine in stock, and locates a machine as described in the two (2) bullet points in question 1, these rental(s) will be quoted with the best rates Empire can negotiate, and could be higher or lower than a machine Empire owns.

What is not included in Empire's sample quote is, any damage, machine fuel cost, or cleaning (labor cost) of the machine before the machine is called off rent. These will only be charged if applicable and quoted after the machine is called off, or returned.

Client		CITY OF TUCSON		Rental Equipment Quote		12/1/2021		EMPIRE CAT	
Contact									
Phone #				http://www.empire-cat.com/rentalterms					
Location		LOS REALES LANDFILL TUCSON AZ							
Rental Sur-Charge						Sales Tax %		Tucson 8.70%	
Machine #1		CAT 336K LANDFILL COMPACTOR		Machine #2		CAT D9T WASTE HANDLER			
Notes:				Notes:					
Notes:				Notes:					
REP Charge %		Daily		Week		4/Week			
GET/Notes:		Rates		Daily		Week		4/Week	
		REP Charge		Rates					
		Hwy. Plt. 3% Fee							
		Rental Surcharge							
		Sub Total		\$13,000.00		\$30,000.00			
		Sales Tax		\$1,131.00		\$2,610.00			
		Total Cost		\$14,131.00		\$32,610.00			
Freight:		Delivery		Pickup		Total Freight			
Rates:		\$1,625.00		\$1,625.00		\$3,532.75			
Notes/Fees:									
Notes/Fees:									
		Sales Tax		\$282.75					
		Total Cost		\$14,131.00		\$32,610.00			
		Sub Total		\$13,000.00		\$30,000.00			
		Sales Tax		\$1,131.00		\$2,610.00			
		Total Cost		\$14,131.00		\$32,610.00			
		Hwy. Plt. 3% Fee							
		Rental Surcharge							
		REP Charge							
		Rates		Daily		Week		4/Week	
		GET/Notes:		Daily		Week		4/Week	
		REP Charge							
		Hwy. Plt. 3% Fee							
		Rental Surcharge							
		Sub Total		\$13,000.00		\$30,000.00			
		Sales Tax		\$1,131.00		\$2,610.00			
		Total Cost		\$14,131.00		\$32,610.00			
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		Rental Surcharge							
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		Rates		Daily		Week		4/Week	
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		Rental Surcharge							
		Sub Total		\$13,000.00		\$30,000.00			



CITY OF
TUCSON

BUSINESS
SERVICES
DEPARTMENT

November 29, 2021

Sent via email, this day

Patrick Kearns, North America Industry Manager
Tirena Pavelka, Government Sales Account Manager
Caterpillar Inc.
100 NE Adams St.
Peoria, IL 61629
Email: Pavalka_tirena_1@cat.com
Phone: (309) 675-1589

Subject: Request for Proposal No. 212816 Heavy Equipment, Parts, Accessories, Supplies and Related Services - **Request for Clarification**

Dear Mr. Kearns and Ms. Pavelka,

The City of Tucson has completed the initial phase of evaluation of submittals received in response to the subject solicitation. The evaluation committee requests a written response to the questions listed below, as referenced from RFP 212816.

Pursuant to Page 9 of 39, Scope of Work, Service Requirements, Services, Rental, the ability to rent heavy equipment through the manufacturer or dealer, and **pursuant to page 18 of 39, Method of Approach, Service**, provide detailed information explaining the service capabilities of your authorized dealers.

Question #1: What is the rental availability for a Waste Handler Compactor and Dozer, the same size and type of model currently used at the Los Reales Landfill, within 24 – 48 hours, upon request?

Question #2: What is the transport fee per mile, including fuel charges, to transport a Waste Handler Compactor and Dozer, to the Los Reales Landfill?

Question #3: What are the loading and unloading fees for a Waste Handler Compactor and Dozer the same size and type of model currently used at the Los Reales Landfill?

Question #4: Provide a Sample Quote which includes responses to questions 1, 2 and 3 for evaluation.

Offeror's written response to Questions 1, 2, 3 and 4 must be provided **no later than 4:00 p.m. local Arizona time, Wednesday, December 1st, 2021.** If you should have any questions regarding the items above, please contact me at (520) 837-4134 or Cynthia.thompson@tucsonaz.gov.

Sincerely,

Cynthia Thompson, NIGP-CPP, CPPB
Principal Contract Officer

File 212816

Contract # 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

Offer and Acceptance

CITY OF TUCSON
 BUSINESS SERVICES DEPARTMENT
 SHARED SERVICES PROCUREMENT DIVISION
 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

PROPOSAL NO. 212816

Page **90** of **91**

CONTRACT OFFICER: CYNTHIA THOMPSON, NIGP-CPP, CPPB
 PH: (520) 837-4134

OFFER AND ACCEPTANCE

OFFER

TO THE CITY OF TUCSON:

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein. [Signature includes acceptance of exceptions in attached EXCEPTIONS document.](#)

For clarification of this offer, contact:

Caterpillar Inc.
 Company Name

Name: Tirena Pavelka

100 NE Adams St
 Address

Title: Government Account Manager

Peoria IL 61629
 City State Zip

Phone: 309-675-1589

Signed by:
Patrick Kearns
 Signature of Person Authorized to Sign

Fax: _____

Printed Name

E-mail: Pavelka_tirena_L@cat.com

Patrick Kearns, NA Industry Manager
 Title

ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as **Contract No. 212816**.

CITY OF TUCSON, a municipal corporation

Approved as to form:

Awarded:

This 3rd day of October 2022

This 3rd day of October 2022

Regina Nassen for
 As Tucson City Attorney and not personally

Matthew Sage for
 As Director of Business Services and not personally

Contract # 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

Caterpillar, Inc. – response to RFP 212816



Caterpillar Inc.
100 NE Adams St.
Peoria, IL 61629

September 16, 2021

Cynthia Thompson, NIGP-CPP, CPPB
City of Tucson Department of Procurement
Contract Officer
255 W. Alameda, 6th floor
Tucson, AZ 85701

RE: Request for Proposal Number 212816, Heavy Equipment, Parts, Accessories, Supplies and Related Services

On behalf of Caterpillar Inc, the Cat Dealer Network and Empire Southwest, LLC dba Empire Machinery, we sincerely appreciate the opportunity to participate in RFP #212816 from the City of Tucson. We believe the current contract, #161534, is a very successful contract for all parties: City of Tucson, OMNIA Partners and Member Agencies, Caterpillar and CAT Dealers.

We believe Caterpillar's offer in RFP #212816, if awarded, has three major benefits to all parties.

- 1) Capitalizing on the momentum of Contract #161534
Contract #161534 continues to gain momentum with the Cat dealer network. We currently have solid plans in place to continue growth through the contract and look forward to continuing the same plans through RFP #212816. Our growth goals can only be reached if RFP #212816 is awarded as a single award for heavy equipment products. As a demonstration of our commitment to growing with OMNIA, we are pleased to propose an increased administrative fee versus the fee under contract #161534 (See exceptions document attached). Additionally, Caterpillar recognizes that the City of Tucson and other participating agencies will have needs outside of the range of products offered by Caterpillar and its dealer network. Therefore, a non-competitive "multi-award" is acceptable to grow the volumes of this contract.
- 2) Caterpillar's product offering far exceeds any other manufacturer
Our best professional estimate is that Caterpillar offers 142 more individual machine models to the governmental market than our next closest competitor. The depth and breadth of these additional units represents three times more machines to service The City of Tucson's and member agency's needs. The result is more revenue through the contract.
- 3) Cat Dealers have a larger infrastructure footprint
Cat Dealers have an infrastructure -- in stores and people -- greater than all our competitors combined. Cat Dealer Sales Managers and Salespersons are discovering two major benefits of the City of Tucson/OMNIA Partners contract: 1) A nationally recognized municipality as the Lead Agency and 2) The value of a single award.

When these features are presented, procurement staff and operating departments have much higher confidence and trust in the cooperative contract bid process. U.S. Cat dealers continue to increase their presentations and visibility of the contract and thus secure adoption by new and/or existing OMNIA Partner members. Empire continues to experience an increased level of engagement with counterparts at other dealerships who request guidance and best practice suggestions.

City of Tucson Department of Procurement
September 10, 2021
Page 2 of 2

Our response includes two sources. The first is from Caterpillar Inc., prepared by the Corporate Governmental Account Team, based in Peoria, Illinois. Caterpillar's responses pertain to the scope of Caterpillar's responsibility, while remaining cognizant that each dealership and respective territory have their own business rules and local regulations. Caterpillar is not at liberty to make commitments in this response on behalf of all Cat dealers. Caterpillar's commitment is the pricing discount from their published list price on machines they manufacture. These will be available to every Caterpillar dealer in the United States when a local agency requests to purchase from this contract. The local Cat dealer must still agree to any additional terms and conditions the member agency may still require.

The second source for our response is Empire Machinery's input. Empire approached its submission as if preparing the proposal solely for the City of Tucson. Empire's business relationship with the City of Tucson is highly valued and is our primary focus. The Empire Machinery section should only be considered as a commitment of what Empire will provide the City of Tucson and other agencies in its authorized territory. If this submission provides value, it may be used in the OMNIA marketing effort to potential agencies in understanding what a Caterpillar dealership is capable of, but in no way is meant to imply or represent that any other dealers can or will provide the exact scope or elements that Empire offers the City of Tucson.

Empire also represents several products that Caterpillar does not manufacture, but were requested in the RFP. We refer to non-Caterpillar products at Empire as "Allied" products. Allied products enhance or complete the machines for applications our customers need. Additional information is included in the Empire section entitled "Allied Products".

In addition to our response, there are three attachments which will include: City of Tucson RFP #212816 Amendment acknowledgments, a compilation of documents that were requested in the RFP, and our exceptions request.

Thank you for the opportunity to participate in this solicitation for the City of Tucson and OMNIA Partners.

Sincerely,



Tirena Pavelka
Caterpillar Inc.
Government Sales Account Manager
100 NE Adams St.
Peoria, IL 61629
Pavelka_tirena_l@cat.com
309-675-1589

CITY OF TUCSON

REQUEST FOR PROPOSAL

PROPOSAL NUMBER: 212816

PROPOSAL SUBMISSION DEADLINE: SEPTEMBER 14, 2021, 2:00 P.M. LOCAL AZ TIME

PROPOSAL SUBMITTAL LOCATION: ****ELECTRONIC SUBMITTALS REQUIRED****
<https://www.tucsonaz.gov/bso/>

MATERIAL OR SERVICE: HEAVY EQUIPMENT, PARTS, ACCESSORIES,
SUPPLIES AND RELATED SERVICES

PRE-PREPOSAL DATE: TUESDAY, AUGUST 17, 2021
TIME: 12:30 P.M. – 1:30 P.M. LOCAL AZ TIME
LOCATION: [Click Here to Join Meeting](#)

Or call in (audio only)
[+1 213-293-2303,312216198#](tel:+12132932303312216198)
United States, Los Angeles
Phone Conference ID: 312 216 198#

CONTRACT OFFICER: Cynthia Thompson, NIGP-CPP, CPPB
TELEPHONE NUMBER: (520) 837-4134
Cynthia.Thompson@tucsonaz.gov

A copy of the solicitation and any possible amendments may be downloaded from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number. The City does not mail out Notices of available solicitations via the U.S. Postal Service. Email notifications are sent to those interested offerors who are registered with us and who have selected email as their preferred delivery method. To register, or to update an existing vendor record, please visit www.tucsonprocurement.com, click on Vendors, then click on Vendor Registration to access the City's vendor registration system. You may also call the Shared Services Procurement Division of the Business Services Department at (520) 791-4217 if you have questions.

Competitive sealed bids for the specified material or service shall be received electronically by the Business Services Department at: <https://www.tucsonaz.gov/bso/> until the date and time cited. **In order to allow for any issues that may be encountered, (i.e. slow internet, internet outage, uploading large documents, differing system requirements, etc.), Offerors should ensure sufficient time to upload proposal documents. Responses not in "Submitted" Status by the Due Date and Time stated in the solicitation WILL be rejected.**

Offerors shall submit their Proposal to the Business Services Department on or before the day and hour set for the Proposal Due Date identified above, as may be modified by amendments to this solicitation. Responses to this solicitation shall only be accepted via electronic submission through the City's online bidding system. Instructions to submit a response to this solicitation can be found at the following link: <https://tucsonprocurement.com/assets/OnlineBiddingProceduresManual.pdf>.

It is the sole responsibility of the Bidder to submit their Bid before the scheduled time, as reflected in the City's online bidding system. No Bid shall be accepted after the scheduled opening time.

Questions must be addressed to the Contract Officer listed above.

PUBLISH DATE: August 10, 2021

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CONTRACT OFFICER: CYNTHIA THOMPSON, NIGP-CPP, CPPB
PH: (520) 837-4134

REQUEST FOR PROPOSAL

Heavy Equipment, Parts, Accessories, Supplies and Related Services

- A. INTRODUCTION**
- B. SCOPE OF WORK**
- C. INSTRUCTIONS TO OFFERORS**
- D. PROPOSAL EVALUATION CRITERIA**
- E. VENDOR RESPONSE**
- F. SPECIAL TERMS AND CONDITIONS**
- G. INSURANCE REQUIREMENTS**
- H. STANDARD TERMS AND CONDITIONS**

ATTACHMENTS:

A – Exhibit B - OMNIA Partners Exhibits

Attachment A, Exhibit A - Response for National Cooperative Contract

Attachment A, Exhibit B - Administration Agreement (Example)

Attachment A, Exhibit F - Federal Funds Certifications

Attachment A, Exhibit G - New Jersey Business Compliance

B – City of Tucson - Certification of Living Wage Payments Form

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A. INTRODUCTION

A.1. Summary

The City of Tucson (herein referred to as the City) is requesting proposals from qualified and experienced firms to provide **HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES**. The City requires a contractor who provides a diverse and extensive supply of equipment for purchase and/or rental to various locations in the Tucson metropolitan area and Participating Public Agencies, as well as representative(s) to provide product and service consultations, demonstrations, and training.

Heavy equipment will include, but not be limited to, the following equipment categories: Landfill, Construction, and Material Handling. The City has approximately 150 pieces of heavy equipment that falls under the heavy equipment category. The Contractor will have a sophisticated infrastructure including strategically located nationwide distribution centers and employ professional sales representatives to provide effective, timely service to the City of Tucson and to Participating Public Agencies.

Requirements and qualifications are defined in detail in the Scope of Services Section of this Request for Proposal (RFP).

A.2. Background

NATIONAL CONTRACT REQUIREMENTS

The City of Tucson as the Principal Procurement Agency, defined in Attachment A, has partnered with OMNIA Partners, Public Sector ("OMNIA Partners") to make the resultant contract (also known as the "Master Agreement" in materials distributed by OMNIA Partners) from this solicitation available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' cooperative purchasing program. The City of Tucson is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners (a "Participating Public Agency") and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of a Master Intergovernmental Cooperative Purchasing Agreement, a form of which is attached hereto on Attachment A, or as otherwise agreed to. Attachment A contains additional information about OMNIA Partners and the cooperative purchasing program.

OMNIA Partners is the largest and most experienced purchasing organization for public and private sector procurement. Through the economies of scale created by OMNIA Partners public sector subsidiaries and affiliates, National IPA and U.S. Communities, our participants now have access to more competitively solicited and publicly awarded cooperative agreements. The lead agency contracting process continues to be the foundation on which we are founded. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education, and non-profits.

OMNIA Partners provides shared services and supply chain optimization to government, education and the private sector. With corporate, pricing and sales commitments from the Supplier, OMNIA Partners provides marketing and administrative support for the Supplier that directly promotes the Supplier's

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products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis. Participating Public Agencies benefit from pricing based on aggregate spend and the convenience of a contract that has already been advertised and publicly competed. The Supplier benefits from a contract that generally allows Participating Public Agencies to directly purchase goods and services without the Supplier's need to respond to additional competitive solicitations. As such, the Supplier must be able to accommodate a nationwide demand for services and to fulfill obligations as a nationwide Supplier and respond to the OMNIA Partners documents (Attachment A).

The City anticipates spending approximately \$8.5 million over the full potential Master Agreement term for Heavy Equipment, Parts, Accessories, Supplies and Related Services. While no minimum volume is guaranteed to the Supplier, the estimated annual volume of heavy equipment, parts, accessories, supplies and related services purchased under the Master Agreement through OMNIA Partners is approximately \$25,000,000. This projection is based on the current annual volumes among the City of Tucson, other Participating Public Agencies anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between the Supplier and OMNIA Partners.

A.3. Contact Information

Cynthia Thompson, NIGP-CPP, CPPB

Principal Contract Officer

Email: Cynthia.Thompson@tucsonaz.gov

Phone: [\(520\) 837-4134](tel:(520)837-4134)

Department:

Business Services

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B. SCOPE OF WORK

B.1. GENERAL REQUIREMENTS

1.QUALIFIED FIRMS: Offerors should meet the minimum qualifications:

- a. Have a strong national presence in the heavy equipment industry.
- b. Have a distribution model capable of delivering heavy equipment nationwide.
- c. Have a demonstrated sales presence.
- d. Be able to meet the minimum requirements of the cooperative purchasing program detailed herein.
- e. Be able to provide the full range of products, equipment, parts, materials and services to meet the demands of the City and Participating Public Agencies.

2.PRODUCTION REPORTS: The Contractor or associated dealer must have the ability to furnish the agency or Participating Public Agency ordering equipment with MONTHLY progress reports confirming status of delivery dates as agreed upon. These reports shall include, but not be limited to, the following:

- a. Copy of Contractor's order to the factory.
- b. Copy of factory acknowledgment of order indicating scheduled date of production and shipment from factory.
- c. Factory generated computer status reports.
- d. Notification to the City or Participating Public Agency of any changes in production or shipping dates.
- e. Any special information the Contractor shall have that would affect the timely delivery of the vehicles ordered in accordance with original delivery date promise.

In lieu of written reports submitted to Operations/Fleet Services, the Contractor may provide access to an Internet based on-line order tracking system. Any on-line system provided must provide the information required above. The Contractor must provide all access codes necessary to view this information.

3.DELIVERY and DELIVERY DOCUMENTATION: The City and each Participating Public Agencies will establish their own delivery schedule based upon its own requirements and the Contractor's specified time to deliver after receipt of an order. The following documents are due upon delivery of the completed vehicles to the City:

- a. Invoice
- b. Warranty document
- c. Level 1 Inspection
- d. Required manuals
- e. Title and Registration per State requirements

Upon contract award, the Contractor will be required to supply a delivery ticket specifying the purchase order number of each vehicle.

Delivery to the City of Tucson: All deliveries shall be made Monday through Friday from 8:00 a.m. to 3:00 p.m. The Contractor shall be required to give the General Services Department/Fleet Services

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Division a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and quantity of units to be delivered.

4. VEHICLE INSPECTION: The purchasing agency will assist the Contractor or the authorized dealer in arranging for inspection of each piece of equipment purchased. Each vehicle delivered shall be subject to a complete inspection by the General Services Department/Fleet Services Division staff prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. If delivered equipment is returned to the Contractor prior to acceptance for any reason, all corrections shall be made without any inconvenience to the City.

5. TRAINING: The Contractor shall provide, at no additional cost, training for each basic unit of equipment purchased. This training shall be adequate to the needs of the typical equipment operator and service technician in order to assure proper operation, utilization and maintenance of the equipment supplied. Any manuals necessary to perform the required training shall be furnished by the Contractor. The trainer shall be factory-trained and thoroughly knowledgeable in equipment operator and service technician functions. Training shall be presented in a quality suitable for videotaping. The City reserves the right to videotape part or all of the training provided at no additional cost to the agency.

6. REPAIRS: The Contractor will be responsible for transport of vehicles to and from his place of business for repairs, at no additional cost to the City, until such time as the City of Tucson places the vehicle in service. Transport of the vehicle will not be delayed more than one working day from date of notification.

7. WARRANTIES: Offeror shall warrant that all equipment and parts furnished in their offer are newly manufactured and free from defects in material and workmanship from the date the City places the equipment into service. Warranty shall also guarantee accepted trade standards of quality, fitness for the intended uses, and conformance to promises or specified specifications. No other express or implied warranty shall eliminate the vendor's liability as stated herein.

Total Maintenance and Repair (TMR's) must be agreed upon and presented to the City prior to the purchase of equipment and/or rebuilds.

8. VENDOR SERVICE AND MAINTENANCE: Contractor will provide and maintain a factory authorized parts and service facility within a reasonable distance to the purchasing location.

For the City, the parts and service facility must be within a 125-mile radius of the City of Tucson Price Service Center (4004 S. Park Avenue, 85714). If warranty service is not provided within the Tucson metro area, the Contractor shall be responsible for all costs, including fuel and labor, of transporting vehicle(s) between the City's Price Service Center and the Contractor's service center. The method of transportation must be mutually agreed to by the Contractor and the City prior to transport.

For service calls, the Contractor must provide a response within 60 minutes.

Additional Requirement for City of Tucson Landfill: A service technician must be on-site each morning, Monday-Friday (except holidays) to service and maintain the City of Tucson landfill equipment located at 5300 E. Los Reales Road, Tucson, AZ.

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9. VEHICLE RECALL NOTICES: In the event of any recall notice, technical service bulletin, or other important notification affecting a vehicle purchased from this contract, a notice shall be sent to the purchasing agency's representative. For the City of Tucson, all notices shall be sent to General Services, Fleet Services Division, 4004 S. Park Avenue, Building 1, Tucson, AZ 85714.

B.2. EQUIPMENT AND PRODUCT REQUIREMENTS

- 1. EQUIPMENT:** A complete and comprehensive line of new and used Heavy Equipment to support various needs of agencies is requested.

The categories include, but are not limited to, the following:

Landfill Equipment:	Loaders / Tracked
Landfill Dozers	Loaders / Wheeled
Landfill Compactors	Motor Graders
Landfill Scraper	Patcher Truck
Material Handling	Paver / Tracked
Fork Lift	Paver / Wheeled
Crane / Wheeled	Rollers / Drum / Vibrate
Crane / Track	Rollers / wheeled / Pneumatic
Construction Equipment:	Rollers / Drum / Wheeled
Air Compressor	Scrapers
Articulated Dump Truck	Skid Steer Loaders
Asphalt Cold Planer	Soil Compactors
Asphalt Rotary Mixer	Sweeper / Scrubber
Bucket Truck	Sweeper / Street
Cement Mixer	Sweeper / walkway
Chip Spreader	Telehandlers
Crack Sealer	Trailer / Tilt
Dozers / Tracked	Trailer / Flatbed
Dozers / Wheeled	Trailer / Drop Neck
Dump Trucks	Trailer / Utility
Excavators / Tracked	Trencher
Excavators / Wheeled	Water Truck
Ice Resurfacers	Water Wagon
Loaders / Backhoe / Wheeled	

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2. BALANCE OF LINE/OTHER CATEGORIES: Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line for heavy equipment, parts, accessories, supplies and related services. Pricing for complete product offering/balance of line items will be determined by a percentage discount off the offeror's retail price list. The pricing percentage discount offered must be entered in the offeror's response. The City reserves the right to accept or reject any or all balance of line items offered. A successful offeror will not be awarded complete product offering/balance of line items that are awarded as an item to another vendor as part of this solicitation.

3. CURRENT EQUIPMENT AND PRODUCTS: All equipment and products being offered in response to this solicitation shall be in current and ongoing production; shall be formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

4. PRICING: Offerors shall provide a verifiable pricing model that may include, but not be limited to, a discount from a verifiable price index, a reduced net pricing schedule, a hybrid or other supplier specific pricing model. The pricing model shall remain firm and will include all charges that may be incurred in fulfilling requirement(s) for the twelve-month period following contract award. Where applicable, pricing shall be determined by applying Offerors discounts to the prices listed on their manufacturer's price lists, retail price sheets, catalogs or by utilizing the reduced net pricing schedule.

Special Offers/Promotions:

In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, Contractor may conduct sales promotions involving price reductions for a specified lesser period. Contractor may offer Participating Public Agencies competitive pricing which is lower than the not-to-exceed price set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract. Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

B.3. SERVICE REQUIREMENTS

1. SERVICES: The City is seeking the inclusion of value-add services. These services may be provided by the authorized manufacturer or dealer and sample categories include, but are not limited to:

a. Repair Services: The ability to provide repair services through authorized manufacturer's facilities or dealers. Repair services may include, but not be limited to, hourly rate for repairs in shop, hourly rate for repairs in field, weld repairs, machining work, etc.

b. Maintenance Services: The ability to provide various maintenance services and options through authorized manufacturer's facilities or dealers. Maintenance services may include scheduled services based upon the manufactures recommended guidelines to include, but not be limited to, daily scheduled services, daily fuel dispensing, major/minor machine cleaning, etc. Maintenance services may also include mobile maintenance.

For landfill equipment, if the City has purchased the maintenance services from the manufacturer's dealer, the City requires loaner or rental equipment if the machine is down for more than 24 hours. If the equipment is down due to no fault of the City, the loaner shall be provided at no additional cost.

c. Warranties: The ability to provide a full range of extended warranties.

d. Lease/Financing Options: The ability to provide financing options. Identify direct or third party financing or both.

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e. Trade-In or Buyback Options: The ability to trade-in used equipment or obtain a guaranteed buy back price at the time of purchase.

f. Rental: The ability to rent heavy equipment through the manufacturer or dealer.

g. Incorporation of New Business Enterprises: The ability to incorporate certain business enterprises (as requested by the City or Participating Public Agencies) into your distribution, and sales channels.

h. Green/Sustainability Program:

1. Policies: Efforts and policies pertaining to green and sustainability.
2. Products: Impact on product offerings.
3. Distribution: Impact in distribution.
4. Certifications: The industry recognized certifications and standards obtained.

i. Training & Education: The ability to provide on-site and/or online training and educational programs/seminars as well as providing technical product knowledge and support.

j. Customer Support Services: The policies on replacements, returns, restocking charges, after hours service, after sales support, out of stock, order tracing, technical feedback, quality assurance for orders and drop shipments.

k. Other Services/Programs: Other value-add services not included in above categories.

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C. INSTRUCTIONS TO OFFERORS

C.1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION

For purposes of this solicitation and subsequent contract, the following definitions shall apply:

City: The City of Tucson, Arizona

Contract: The legal agreement executed between the City and the Contractor/Consultant. The Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.

Contractor/Consultant: The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.

Contract Representative: The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor and is responsible for monitoring and overseeing the Contractor's performance under this Contract.

Business Services Director: The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

May: Indicates something that is not mandatory but permissible.

Offeror: The individual, partnership, or corporation who submits a proposal in response to a solicitation.

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.

Should: Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

C.2. PRE-PROPOSAL CONFERENCE

If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail at least nine days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.

C.3. INQUIRIES

Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail at least nine days prior to the proposal due date.

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date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.

C.4. AMENDMENT OF REQUEST FOR PROPOSAL

The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.

C.5. FAMILIARIZATION OF SCOPE OF WORK

Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

C.6. PREPARATION OF PROPOSAL

- A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
- B. At a minimum, your proposal should include the signed Offer and Acceptance form, signed copies of any solicitation amendments, completed Price Page and your response to all evaluation criteria.
- C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.
- D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
- E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
- F. Periods of time, stated as a number of days, shall be in calendar days.
- G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
- H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
- I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.

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C.7. PAYMENT DISCOUNTS

Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period. The payment discount shall apply to all purchases and to all payment methods.

C.8. TAXES

The City of Tucson is exempt from federal excise tax, including the federal transportation tax.

C.9. PROPOSAL/SUBMITTAL FORMAT

A proposal should be submitted on the forms and in the format specified in the RFP. Any information that the offeror requested to held as confidential information shall be clearly marked as such. The material should be in sequence and related to the RFP. The sections of the submittal should be organized, clearly identifiable, and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document, and the Offeror's response to the Evaluation Criteria including the completed Price Page. Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.

C.10. EXCEPTIONS TO CONTRACT PROVISIONS

A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.

C.11. PUBLIC RECORD

All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.

C.12. CONFIDENTIAL INFORMATION

The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

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C.13. CERTIFICATION

By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.

C.14. WHERE TO SUBMIT PROPOSALS

Competitive sealed proposals for the specified material or service shall be received electronically by the Business Services Department at <https://www.tucsonaz.gov/bsol> until the date and time cited.

Offerors shall submit their Proposal to the Business Services Department on or before the day and hour set for the Proposal Due Date identified above, as may be modified by amendments to this solicitation. Responses to this solicitation shall only be accepted via electronic submission through the City's online bidding system. Instructions to submit a response to this solicitation can be found at the following link: <https://tucsonprocurement.com/assets/OnlineBiddingProceduresManual.pdf>.

NOTE: RESPONSES MUST BE IN "SUBMITTED" STATUS (SEE THE INSTRUCTION MANUAL THAT IS ACCESSIBLE ON THE LINK ABOVE FOR FURTHER DETAILS) IN ORDER TO BE CONSIDERED. RESPONSES THAT HAVE BEEN CREATED IN THE SYSTEM, BUT THAT ARE NOT IN "SUBMITTED" STATUS AT THE DUE DATE AND TIME WILL NOT BE CONSIDERED.

C.15. LATE PROPOSALS

Late proposals will be rejected. It is strongly advised that offerors create their responses in the City's online bidding system well in advance of the Due Date and Time in order to allow for unforeseen circumstances such as slow internet speed, internet outage, etc. Proposals that are not in "Submitted" status at the Due Date and Time will NOT be considered.

C.16. OFFER AND ACCEPTANCE PERIOD

In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.

C.17. WITHDRAWAL OF PROPOSAL

At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.

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C.18. DISCUSSIONS

The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.

C.19. TAX OFFSET POLICY

If applicable, in evaluating price proposals, the City shall include the amount of applicable business privilege tax, except that the amount of the City of Tucson business privilege tax shall not be included in the evaluation.

C.20. CONTRACT NEGOTIATIONS

Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).

C.21. VENDOR APPLICATION

Prior to the award of a Contract, the successful offeror shall register with the City's Business Services Department. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.

C.22. CITY OF TUCSON BUSINESS LICENSE

It is the responsibility of the Contractor to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email at tax-license@tucsonaz.gov.

C.23. UPON NOTICE OF INTENT TO AWARD

The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.

C.24. AWARD OF CONTRACT

Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:

- A. waive any immaterial defect or informality; or
- B. reject any or all proposals, or portions thereof; or

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C. reissue the Request for Proposal.

A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Business Services and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.

C.25. PROPOSAL RESULTS

The name(s) of the successful offeror(s) will be posted on the Business Services Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.

C.26. PROTESTS

A protest shall be in writing and shall be filed with the Director of Business Services. A protest of a Request for Proposal shall be received at the Department of Business Services not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:

- A. The name, address, and telephone number of the protestant;
- B. The signature of the protestant or its representative;
- C. Identification of the Request for Proposal or Contract number;
- D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
- E. The form of relief requested.

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D. PROPOSAL EVALUATION REQUIREMENTS

D.1. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

- A. Method of Approach
- B. Qualifications & Experience
- C. Price Proposal

D.2. Interviews

The City reserves the right to conduct interviews with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview process.

D.3. Additional Investigations

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

D.4. Prior Experience

Experiences with the City and entities that evaluation committee members represent and that are not specifically mentioned in the solicitation response may be taken into consideration when evaluating offers.

D.5. Multiple Awards

To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

D.6. Shortlist

The City reserves the right to shortlist the offerors on any of the stated criteria. However, the City may determine that shortlisting is not necessary.

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E. VENDOR RESPONSE

E.1 REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested and must contain, at a minimum, the following:

A. Method of Approach

1. Provide a response to the national program.

- a. Include a detailed response to **Attachment A, Exhibit A - Response for National Cooperative Contract**. Responses should highlight experience, demonstrate a strong national presence, describe how Offeror will educate its national sales force about the contract, describe how products and services will be distributed nationwide, include a plan for marketing the products and services nationwide, and describe how volume will be tracked and reported to OMNIA Partners.

Dealer Response

Empire Machinery will be providing a response to RFP #212816 on behalf of Caterpillar's Dealer network, in an effort to support the terms included herein, on a national scale. Empire will provide supplemental responses to applicable questions specific to the manner in which Empire will be specifically supporting the contract for the City of Tucson. From a national standpoint, Empire's supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in territories other than those serviced by Empire Machinery.

- b. The successful Offeror will be required to sign **Attachment A, Exhibit B, OMNIA Partners Administration Agreement, (Example) prior to Contract award**. The Agreement shall be signed no later than issuance of the City of Tucson's Notice of Intent to Award letter. Offerors should complete all reviews of the document prior to submitting a response. Offeror's response should include any proposed exceptions to the OMNIA Partners Administration Agreement.
- c. Include completed **Attachment A, Exhibit F. Federal Funds Certificate and Exhibit G. New Jersey Business Compliance**.

2. Distribution Network

- a. Describe how your firm proposes to distribute the equipment, accessories, parts, repair and services nationwide. Describe any parts the distribution network will have "on-hand" and those that must be ordered.

Caterpillar Response (only)

Caterpillar products are sold and supported by our authorized dealer network. These dealers are established, independent businesses that understand the needs of their local customers and communities. These dealers typically have most parts on-hand and the national average for 24-hour availability is 95%. In addition, Caterpillar maintains 10 parts distribution warehouses throughout the country to ensure that almost all parts can reach a customer within 24-48 hours.

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Product support and parts availability are the hallmarks of Caterpillar’s success and we take great pride in leading the industry in availability. Subsection d below expands on some of these capabilities.

- b. Identify all other companies/distributors/dealers that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.

Caterpillar Response (only)

Caterpillar and Cat dealers are the two entities involved in providing product/services to public agencies. Transportation between facilities may be contracted out and specific details of the transportation plan can be provided upon request

- c. Provide the number, size and location of your firm’s manufacturing facilities, distribution facilities, warehouses, service facilities and dealer networks as applicable. State the estimated dollar value of your inventory. Include a map showing heavy equipment distribution network coverage nationwide.

Caterpillar Response (only)

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our principal manufacturing facilities include those used by the following segments in the following locations:

Segment	U.S. Facilities	Facilities Outside the U.S.
Construction Industries	Arkansas: North Little Rock	Brazil: Campo Largo, Piracicaba
	Georgia: Athens, LaGrange	China: Suzhou, Wujiang, Xuzhou, Qingzhou
	Illinois: Aurora, Decatur, East Peoria	France: Grenoble, Echirolles
	Kansas: Wamego	Hungary: Godollo
	Minnesota: Brooklyn Park	India: Thiruvallur
	North Carolina: Clayton, Sanford	Indonesia: Jakarta
	Texas: Victoria, Waco	Italy: Minerbio
		Japan: Akashi
		Mexico: Torreon
		Netherlands: Den Bosch
		Poland: Janow, Sosnowiec
		Thailand: Rayong
		United Kingdom: Desford, Stockton

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Resource Industries	Illinois: Aurora, Decatur, East Peoria, Joliet South Carolina: Sumter Tennessee: Dyersburg Texas: Denison Wisconsin: South Milwaukee	China: Langfang, Wuxi France: Arras Germany: Dortmund, Lunen India: Hosur, Thiruvallur Indonesia: Batam Italy: Jesi Japan: Sagami-hara Mexico: Acuna, Monterrey, Reynosa Northern Ireland: Belfast Russia: Tosno Thailand: Rayong United Kingdom: Peterlee
Energy & Transportation	Alabama: Albertville, Montgomery California: San Diego Colorado: Denver Georgia: Griffin, Alpharetta Illinois: Island Lake, LaGrange, Mossville, Mapleton, Pontiac Indiana: Lafayette, Muncie Oklahoma: Broken Arrow, Sulphur North Carolina: Winston-Salem Kentucky: Decoursey, Mayfield Texas: Channelview, DeSoto, Mabank, San Antonio, Schertz, Seguin, Sherman	Australia: Revesby, Redbank Brazil: Curitiba, Hortolandia, Piracicaba, Sete Lagoas China: Tianjin, Wuxi Czech Republic: Zatec, Zbrak Germany: Kiel, Mannheim, Rostock India: Hosur, Aurangabad Mexico: San Luis Potosi, Tijuana Republic of Singapore: Singapore Sweden: Ockerö Islands Switzerland: Riazzino United Kingdom: Lame, Monkstown, Peterborough, Sandiacre, South Queensferry, Springvale, Stafford, Wimborne

Caterpillar inventory is stated at the lower of cost or market. Cost is principally determined using the last-in, first-out (LIFO) method. The value of inventory totaled \$11.4B on December 31, 2020.

- d. Describe your dealer network and their role in providing products, services, etc. under this contract.

Caterpillar Response (only)

Cat machines and engines are distributed principally through a worldwide network of dealers. In the United States there are 45 dealers, two in Canada (see dealer map below) and 114 located outside North America.

Caterpillar and Cat Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Cat dealers also will provide parts and service support. All Participating Dealers are financially healthy with no outstanding issues that would disrupt service within these territories. Cat dealers average more than 60 years of experience within their respective territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 59,000 total employees. Many dealers have salespersons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The Cat dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

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Image: North America Dealer Network

3. Product

- a. Provide a detailed written response illustrating how the equipment, accessories, parts, supplies and related services offered will meet the requirements of this solicitation. Offerors shall identify and describe their heavy equipment categories. For each proposed category, describe in detail and provide at a minimum the following types of information:

1. Identification and description of equipment categories offered.

Caterpillar Response

Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation include but are not limited to:

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Articulated Trucks	Motor Graders
Asphalt Pavers	Off-Highway Trucks
Backhoe Loaders	Road Reclaimers
Cold Planers	Site Prep Tractors
Compactors (including landfill)	Skid Steer Loaders
Compact Track Loaders	Telehandlers
Multi-Terrain Loaders	Track Loaders
Dozers (including landfill)	Wheel Dozers
Excavators	Wheel Excavators
Forestry Equipment	Wheel Loaders
Generators	Wheel Tractor Scrapers (including landfill)

Dealer Response

Empire Machinery represents the full line of Caterpillar equipment, as described in Caterpillar's response. Caterpillar dealers also carry non-Cat manufactured, complementary products, that are available in this bid for purchase. These products are referred to as "Allied" products. See next section for current list of Allied products.

2. Identification and description of subcategories.

Caterpillar Response

Each of the equipment categories above consists of several models of machines that vary by size, horsepower, and productivity. A complete current listing with specifications and details is maintained at:

http://www.cat.com/en_US/products/new/equipment.html

Recycling and Waste

Caterpillar is the only manufacturer to offer a full line of machines specifically designed to handle landfill and waste applications. Specific information can be found on our website at:

http://www.cat.com/en_US/products/new/by-industry/waste.html

Construction Equipment

As the recognized global leader in construction equipment, Caterpillar has repeatedly demonstrated its expertise in helping governments and contractors worldwide continue to develop and maintain our infrastructure. We have the largest breadth of products support these applications and spend the most in research and development each year to ensure that what we sell is the best performing, most reliable, longest lived and overall best value. For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/construction.html

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Technology & Solutions

Information and data are quickly becoming the new normal in heavy machine operation and maintenance. Caterpillar leads the way with the variety of solutions available to customers. Whether the goal is to track hours and location or to dive deep into operation and maintenance practices, Caterpillar has a technology solution to meet that need. For more information, please visit:

http://www.cat.com/en_US/support/operations/technology.html

Paving

Road building and maintenance and core competencies of the paving division of Caterpillar. We build and support a wide-ranging product line that includes everything from compactors to pavers, to cold planers to road reclaimers. For specs and detailed product descriptions, please visit:

http://www.cat.com/en_US/products/new/by-industry/paving.html

Work Tools

In addition to machines, Caterpillar will also be offering its full line of work tools to add even more versatility to the host machine. This will provide an even great selection of solutions. Caterpillar currently holds the market leader position in both sales and models offered with more than 1800 different work tool options currently available. For more information, please visit:

http://www.cat.com/en_US/products/new/attachments.html

Other/Miscellaneous/Allied

There are other product lines that don't fall neatly into the categories above. Should the City of Tucson have a need for them, they are included as part of this contract and can be offered for sale.

Additionally, Cat dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold to the City of Tucson as allied machines. Most of the products listed in this RFP can be provided either through Cat dealers as a branded Caterpillar product, or as allied equipment.

Dealer Response

All Caterpillar Dealers, including Empire Machinery, represent the full line of products that Caterpillar describes in their response.

As the table below illustrates, Caterpillar offers the largest number of individual models in the construction and governmental industry. With 241 different models, Caterpillar offers 142 more machine options than their closest competitor. No matter what the need is, big or small, Caterpillar offers more machine options/configurations to help our customers optimize each machine to a customer's specific application, in order to help achieve maximum utilization.

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Number of unique machines by Manufacturer (Excludes Mining Products)	Caterpillar	John Deere	Komatsu	Volvo	Case	Bobcat
Wheel Loaders	21	16	7	16	11	2
Motor Graders	15	8	2	0	2	0
Dozers	13	10	8	0	6	0
Excavators (not including mining)	43	22	18	21	21	11
Articulated Trucks	6	4	2	6	0	0
Backhoe Loaders	10	7	0	0	5	0
Skid Steer/Compact Track Loader/MultiTerrain Loader	30	12	0	18	26	42
Skip Loaders (Industrial Class)	1	2	0	0	1	0
Landfill Compactors	3	0	0	1	0	0
Landfill Dozers	6	1	3	0	2	0
Scrap/Demo Material Handlers	7	0	4	0	0	0
Off Highway Trucks – Governmental Class	4	0	4	0	0	0
Asphalt Rollers – Governmental Class	8	0	0	11	19	0
Asphalt Pavers	8	0	0	8	0	0
Dirt Rollers and Compactors	33	0	0	4	6	0
Cold Planers	8	0	0	0	0	0
Reclaimers/Soil Stabilizers	2	0	0	0	0	0
Telehandlers/Forward Reach Fork Lifts	7	0	0	0	0	0
Wheel Dozers – Governmental Class	3	0	0	0	0	0
Wheeled Excavators	8	1	0	6	0	0
Wheel Tractor Scrapers	5	0	0	0	0	0
Breadth of Caterpillar machines covering Governmental Market	241	83	48	91	99	55

For the City of Tucson and the extended Empire Machinery dealer territory, Empire Machinery offers a line of equipment and work tools that Caterpillar does not market nor manufacture. These products are commonly referred to in the industry as “Allied Products”.

Empire Machinery, as well as the other Cat Dealers across North America, carry a wide variety of Allied products to complement the Caterpillar line as well as fill the gaps of the equipment needs of our customers in all industries.

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this additional offering provides a relative model for similar products and or services that can be offered by from other Cat Dealers across the country.

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Allied Products

The Allied products that are included, but not limited to, in this RFP are:

Construction and Mining	Agriculture	Technology
Brand	Brand	Brand
American Compaction	Challenger	Caterpillar
Arrow Material Handling	Claas	Cerragon
Broce Brooms	Gearmore	CrewSight
Crafco	Grouser	DJI Enterprises
Diamond Mowers	Fendt	GCEstimator Suite
Dymax	Lexion	Level Best
Enerpac	Massey Ferguson	Modelogix
Epiroc	Massey Ferguson	ProjectSight
Genie	Massey Ferguson	Prolog
HKX	Mil-Stak Inc	Quantum
JLG	Nikkel Iron Works	RADWIN
Mega	Reynolds	Rajant
Metso	Rogator	RealWorks
Multiquip	Rome Plow	Seco
Paladin / JRB	Schmeiser	Sensemetrics
Jet-Vac	Stinger Inc.	SitePro
Road Widener	Sunflower	Spectra Precision
Rockland	T.G. Schmeiser	Trimble
Summit	Terragator	VICO Office
TY Cushion	Valmar	Winest
Tink	Wilcox	Empire Technology Companies
Weiler	Willmar	Names
Werk-Brau	Woods	Allen Instruments
Woods	Power Systems	BuildingPoint West
On-Highway	Brand	SITECH
Brand	Brand	TOPS
Fleming	ABB	Renewable Energy
Load King	Active Power	Brand
Mac	Allmand	ABB
Maintainer	Asco	BTC Power
Murray Trailers	Atlas Copco	Fronius
Rackley	Avtron	Satcon
Thunder Creek	Crestchic	SMA America
Trail King	Multiquip	Sun Power
UTB	Progressive Solar	
	Stamford Newage	
	Sullair	
	Toshiba	

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3. Identify accessories, parts, services, etc. that are available through the manufacturer.

Caterpillar Response (only)

Caterpillar offers a full line of work tools and attachments for the products it produces. We also have the most comprehensive line of spare parts to support current and legacy products. Note that Caterpillar does not sell equipment or services directly to end users. All products and services will therefore be provided through our North American Dealer network.

4. Identify accessories, parts, services, etc. that are available through the authorized dealer.

Caterpillar Response

In addition to the new machines and power systems mentioned above, Caterpillar dealers also offer a complete line of OEM repair parts, work tools and attachments. Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring, and more are offered by all Cat dealers. Additional services and other lines of equipment may be available depending on local dealer capabilities.

Used equipment and rental equipment is included under this contract and sale/rental prices will be quoted locally at market-competitive prices.

Dealer Response

Empire's 28 locations in Arizona, with three of those locations positioned in close proximity to the City of Tucson locations, are unmatched by any competitor.

Empire Exclusives:

- Family owned, locally managed by Arizonans who live in Arizona
- Over 2,200 dedicated, tenured and committed employees
- 241 different Caterpillar machine models (governmental) with exhaustive configuration options for each, allowing the City of Tucson to optimize the machine for the application
- Prime and standby power generators
- On-road trucks and trailers
- Over 50 Allied products that enhance production or reduce time on the job
- Over 1,500 trained service technicians
- Over 300 field service trucks
- 190+ service bays
- Broadest warranty coverage, covering more parts than any competitor in the industry
- Warranty decisions made locally by Empire, not factory representatives

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- \$85.2 million in parts inventory
- 158,000 parts line items in stock
- 92.5% parts fill rate over-the-counter anywhere in the State
- 97.1% parts fill rate within 24 hours, anywhere in the State
- 98.1% parts fill rate within 48 hours, anywhere in the State
- 99.3% parts filled within four (4) business days, anywhere in the State
- 96.04% over-the-counter parts availability in Mesa
- 89.96% over-the-counter parts availability in Tucson
- Over 2,400 prime units and 3,500 attachments in our Rental fleets
- Professional, full-time, Caterpillar Certified Operator and Technical Trainers, along with dedicated facilities
- 50+ heavy haul transport trucks
- Dedicated Consignment Department to help maximize returns on equipment disposal

Empire alone has more resources than all of our competitors combined. We firmly believe Empire is the only supplier in Arizona uniquely and exclusively qualified to provide the City of Tucson with the lowest Life Cycle Cost/Lowest Cost per Operating Hour.

Empire also offers a worldwide consignment service that has an 89% success rate, with an average days-on-market of 90 days. The majority of the remaining 11% of consignments that do not fall into the “success rate” are made up of machines that the consignor put back to work or non-typical machines such as pavers, curb machines and similar niche products that require a longer marketing time. When you consider historical methods of disposing of older and/or unused machines, this is a good option to consider.

Empire will consign **any brand of equipment** that falls into the scope of machines offered in our proposal. The consignment rate to the City of Tucson will be 9% of the actual transaction price.

For the fee, Empire will be responsible for all aspects of marketing, writing the advertising, advertising worldwide on the internet and in print, where appropriate. We will promote locally in our territory and manage all leads for the agreed upon consignment period. Empire will also be responsible for invoicing and collecting the payment from the buyer. Empire will pay seller within 48 hours of payment (typically less than 24 hours).

We have six (6) dedicated international salesmen, plus 22 in-territory salesmen that actively and aggressively sell our consignment machines. Our consignment program has been a significant portion of our business for over nine years. Disposing of equipment via Empire Consignment realizes an estimated 12%-20% higher net return over a typical disposal using an auction service.

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5. Provide descriptions, catalog(s) or website links for accessories, parts and supplies offered.

Caterpillar Response

To see Caterpillar's full line of heavy equipment, work tools, and services please visit www.cat.com

Dealer Response

As previously described, Empire carries the full line of Caterpillar products. Please see the list of website links that Empire has provided for additional accessories, parts, and supplies offered:

CONSTRUCTION & MINING	
Brand	Manufacturer's website:
American Compaction	http://www.acewheels.com/
Arrow Material Handling	https://www.arrowmhp.com/
Broce	https://www.brocebroom.com/
Crafco	https://crafco.com/
Diamond Mowers	https://diamondmowers.com/
Dymax	https://dymax.com/
Enerpac	https://www.enerpac.com/
Epiroc	https://www.epiroc.com/
Genie	https://www.genielift.com/
HKX	http://www.hkx.com/
JLG	https://www.jlg.com/
Mega	https://www.megacorpinc.com/
Metso	https://www.metso.com/
Multiquip	https://www.multiquip.com/
Paladin / JRB	https://www.paladinattachments.com/
Jet-Vac	http://ring-o-matic.com/
Road Widener	https://roadwidenerllc.com/
Rockland	http://www.rocklandmfg.com/
Summit	https://www.summitrubbertracks.com/
TY Cushion	http://tycushiontire.com/
Tink	http://www.tinkinc.com/
Weiler	https://www.weilerproducts.com/
Werk-Brau	https://werk-brau.com/
Woods	https://woodsequipment.com/

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ON-HIGHWAY	
Brand	Manufacturer's website:
Fleming	http://www.flemingtrailers.com/
Load King	https://www.loadkingmfg.com/
Mac	https://www.mactrailer.com/
Maintainer	https://www.maintainer.com/
Murray Trailers	https://www.murraytrailer.com/
Rackley	http://rackleybiltcustomtrailers.com/topic1/index.html
Thunder Creek	https://thundercreek.com/
Trail King	https://www.trailking.com/
UTB	https://drakeequipment.com/
AGRICULTURE	
Brand	Manufacturer's website:
Challenger	http://www.challenger-ag.com/
Claas	https://www.claasofamerica.com/
Gearmore	https://www.gearmore.com
Grouser	https://www.grouser.com
Fendt	https://www.fendt.com/us/index
Lexion	https://www.claasofamerica.com/
Massey Ferguson	https://www.masseyferguson.us/
Massey Ferguson	https://www.masseyferguson.us/
Massey Ferguson	https://www.masseyferguson.us/
Mil-Stak Inc	https://www.mil-stak inc.com
Nikkel Iron Works	https://www.nikkel iron works.com
Reynolds	https://www.reynolds.com
Rogator	https://www.applylikeapro.com/
Rome Plow	https://www.romeplow.com/
Schmeiser	https://www.schmeiser.com
Stinger Inc.	https://www.stinger inc.com
Sunflower	https://www.sunflowermfg.com/
T.G. Schmeiser	https://www.t.g. schmeiser.com
Terragator	https://www.applylikeapro.com/
Valmar	https://salfordgroup.com/
Wilcox	https://www.wilcoxap.com/
Willmar	https://www.grainsystems.com/
Woods	https://www.woods.com

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POWER SYSTEMS	
Brand	Manufacturer's website:
ABB	https://electrification.us.abb.com/products/automatic-transfer-switches
Active Power	https://www.activepower.com/en-GB
Allmand	https://www.allmand.com/na/en_us/products/light-towers.html
Asco	https://www.ascopower.com/us/en/
Atlas Copco	https://www.atlascopco.com/en-us
Avtron	https://www.ascopower.com/us/en/products/load-banks.jsp
Crestchic	https://crestchic-usa.com/
Multiquip	https://www.multiquip.com/
Progressive Solar	https://www.progresssolarsolutions.com/
Stamford Newage	https://www.stamford-avk.com/
Sullair	https://america.sullair.com/en
Toshiba	https://www.toshiba.com/tic/power-electronics/uninterruptible-power-systems
TECHNOLOGY	
Brand	Manufacturer's website:
Caterpillar	https://www.cat.com/en_US/products/new/technology.html
Cerragon	https://www.ceragon.com
CrewSight	https://fieldtech.trimble.com/en/product/trimble-crewsight
DJI Enterprises	https://enterprise.dji.com/
GCEstimator Suite	https://gc.trimble.com/product/trimble-gcestimatoir
Level Best	www.levelbestgrading.com
Modelogix	https://gc.trimble.com/product/modelogix
ProjectSight	https://projectsight.trimble.com/
Prolog	https://gc.trimble.com/
Quantum	https://www.quantum-systems.com/
RADWIN	https://www.radwin.com/
Rajant	https://rajant.com/
RealWorks	https://geospatial.trimble.com/products-and-solutions/trimble-realworks
Seco	www.surveying.com
Sensematics	https://sensemetrics.com/
SitePro	www.surveying.com
Spectra Precision	www.spectralasers.com
Trimble	www.trimble.com
VICO Office	https://vicooffice.dk/en/
Winest	www.trimble.com

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EMPIRE TECHNOLOGY COMPANIES	
Name	Manufacturer's website:
Allen Instruments	https://www.alleninstruments.com/
BuildingPoint West	https://www.buildingpointne.com/
SITECH	www.sitechsw.com
TOPS	https://www.takeoffpros.com/
RENEWABLE ENERGY	
Brand	Manufacturer's website:
ABB	https://new.abb.com/ev-charging
BTC Power	http://btcpower.com/
Fronius	https://www.fronius.com/en
Satcon	http://www.satcon.com/
SMA America	https://www.sma-america.com/
Sun Power	https://us.sunpower.com/commercial-solar

6. Do you offer color choices for each product listed?

Caterpillar Response (only)

Caterpillar machines are painted Caterpillar yellow, which is a copyrighted color and is proprietary. Caterpillar will meet customers' unique paint color requirements for an additional fee, which must be quoted and agreed to prior to the start of build.

b. Describe descriptions, catalog(s) or website links for accessories, parts and supplies offered, including:

1. Types of warranties available (by category or equipment).

Caterpillar Response

Caterpillar is proud to offer the most robust warranty in the industry. Our machines come with standard warranties against defects in material and workmanship. Warranty inclusions and exclusions will vary by product and details can be provided at any point in the purchase process.

Most of the new machines included under this solicitation will qualify for 12 months/unlimited hours. Some products, notably compact track loaders, mini excavators, and skid steer loaders qualify for 24 months/2000 hours.

Two examples of typical warranty statements are attached to this proposal in the ATTACHMENTS section of this RFP.

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Dealer Response

Empire/Caterpillar Warranty Offerings:

Caterpillar offers a wide range of warranties that can be custom built to best match the needs of our customers. There are two (2) basic Caterpillar warranties available: Standard and Extended

- **Caterpillar Standard Warranty** - All new Caterpillar manufactured machines come with Caterpillar's "Premier" warranty for 12 months, with unlimited hours, at no additional cost to the buyer. (See warranty details below under "Caterpillar Extended Warranty".)
- **Caterpillar Extended Warranty** – Begins at expiration of Standard Warranty. Caterpillar Insurance and Caterpillar dealers provide a vast array of optional warranties that can be customized by the length of time (from 2 - 7 years) and/or by the hours (2,000 - 10,000 hours).

There are three (3) types of extended warranties available from Caterpillar:

- **Powertrain Only** – Covers the components that are used to either produce, transmit or control engine horsepower for propelling (moving) the machine; such as engine, transmission, final drives, axles, and brakes.
- **Powertrain and Hydraulics** – Covers all the items above plus hydraulic hoses, lines, pumps, valves, cylinders, hydraulic coolers, and hydraulic filter mounts.
- **Premier** – Includes all of the above with the addition of starters, alternators, pulleys, AC condensers, air conditioning compressors, fuel lines, fuel tanks and associated parts, water piping, radiators, mufflers, electrical indicators, gauges, instruments, wiring harness, switches, joysticks, relays, circuit breakers, frames and chassis, and weldments.

General Warranty Information

Coverage - Inclusions, Exclusions

Standard machine warranty and extended warranties between manufacturers and dealers are not equal. There is no industry standard of items "to be included or excluded" in the scope of either coverage.

Repairs and/or replacement of components excluded by competitive manufacturers can present a significant expense or savings to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products, as well as ensuring the lowest total cost solution for our customers.

Warranted claims will be presented by the customers to the supporting Caterpillar Dealer and will be administered at the local level. Empire will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customers.

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Caterpillar machine warranties are the most comprehensive, covering more parts, more expensive parts, and excluding fewer items, in the industry. This results in lower expense exposure to the owners of Caterpillar equipment.

In comparing major manufacturers' stated warranty coverage listed in publicly available warranty documents, here is an example of parts (including their replacement labor) that are excluded by many manufacturers, but are included by Caterpillar Standard Warranty:

- Radiators
- Mufflers
- Starters
- Alternators
- AC Condenser/Compressor
- Fuel lines
- Hydraulic hoses and lines
- Gauges
- Wiring harnesses
- Frames and structures

Each of these individual items vary between different manufacturers, but they provide evidence that a buyer should consider the coverage of each to fully understand the true scope of their exposure, and calculate that exposure into the total machine price, from an operating cost perspective.

Beyond the firm boundaries of inclusions and exclusions of warranty, Caterpillar dealers utilize a "Fair Value" policy. Fair value is simply the process and procedures that rely on ethical and reasonable decisions to participate in a repair expense beyond warranty coverage. Fair value rules are not described in any written form; they take place when a Caterpillar Dealer and end user experience an event where both feel that the failed part did not meet expected life in a given application.

Once misapplication, abuse or misuse conditions are excluded, fair value reimbursement comes in a variety of forms: From full reimbursement to a shared expense, based on remaining normal life of the failed part, between Caterpillar Inc., Empire and the customers.

Additionally, Caterpillar warranties cover consequential damages. Some major and most minor brands do not. Example: A turbo fails, injects a part from the turbo into the cylinder head, and then destroys the head and piston; piston fracture penetrates the engine block. The turbo is the root cause, but Caterpillar warranty covers the entire repair of consequential damages.

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View below to see the inclusions and exclusions of each of the three types of warranties Caterpillar offers:

✓ Represents covered items in their respective category * Represents items typically <u>excluded</u> by most other manufacturer's warranties, but <u>are included</u> * under Caterpillar's warranty coverage.			
Engine & Accessories	Powertrain	Powertrain + Hydraulics	Premier
Engine – Internal Components	✓	✓	✓
Valve Cover	✓	✓	✓
Oil Cooler BHL	✓	✓	✓
Radiator			✓
Exhaust/Muffler			✓
Manifolds	✓	✓	✓
Fan Motor	✓	✓	✓
Water Pump	✓	✓	✓
Fuel Injection Pumps	✓	✓	✓
Injectors	✓	✓	✓
Lift/Transfer Pump	✓	✓	✓
Senders/Solenoids/Sensors	✓	✓	✓
Thermostat	✓	✓	✓
Flywheel & Torque Converter	✓	✓	✓
Oil Pan Group	✓	✓	✓
Engine Oil Filter Mount **	✓	✓	✓
Turbocharger	✓	✓	✓
Pulleys **	✓	✓	✓
Starter			✓
Alternator			✓
AC Compressor/Condenser			✓
Electronic Control Modules	✓	✓	✓
Governor/Speed Controls & Linkages **	✓	✓	✓
Fuel Lines **	✓	✓	✓
Fuel Tank & Associated Parts			✓
Water Piping			✓
Oil Hoses/Lines			✓
Transmission/Hydrostatic/Driveline	Powertrain	Powertrain + Hydraulics	Premier
Transmissions	✓	✓	✓
Final Drives/Planetary	✓	✓	✓
Drive Shafts	✓	✓	✓
Transfer Case	✓	✓	✓
Wet brake assemblies	✓	✓	✓
Hydrostatic Pumps & Drive Motors **		✓	✓

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Linkage/Lines Connected to Hystat Pump	**		✓	✓
Drive (pilot/eh) Control Valves	**	✓	✓	✓
Senders/Sensors	**		✓	✓
Axles		Powertrain	Powertrain + Hydraulics	Premier
Axles		✓	✓	✓
Axle Seals	**	✓	✓	✓
Lug Nuts & Bolts	**	✓	✓	✓
Differentials		Powertrain	Powertrain + Hydraulics	Premier
Differentials		✓	✓	✓
Hydraulic Systems		Powertrain	Powertrain + Hydraulics	Premier
Hydraulic Pumps & Motors			✓	✓
Hydraulic Cylinders			✓	✓
Hydraulic Valves & Controls			✓	✓
Hydraulic Accumulators	**		✓	✓
Hydraulic Oil Coolers	**		✓	✓
Hoses and Lines	**		✓	✓
Hydraulic Quick Couplers	**		✓	✓
Hydraulic Oil Filter Mounts	**		✓	✓
Electrical		Powertrain	Powertrain + Hydraulics	Premier
Gauges/Indicators/Instruments	**			✓
Wiring harnesses	**			✓
Switches	**			✓
Frames & Linkages		Powertrain	Powertrain + Hydraulics	Premier
Chassis/Implement Frames	**			✓
Weldment	**			✓

Allied Product Warranty

Allied products are excluded from the above terms and conditions. All Allied products will be sold with the manufacturer's standard warranty. This warranty differs from manufacturer to manufacturer. If extended warranty is available and the City of Tucson requests extended options from an Allied manufacturer, Empire will provide the price on a case by case basis.

2. Description of your warranty claims procedures.

Caterpillar Response

Caterpillar warranty is administered by the Caterpillar Dealers, the organization that knows the customer best. They are best positioned to see that the customer receives outstanding service for their warranty repairs. With an outstanding reputation for fairness, regardless of warranty limits, with the backing from the world leading manufacturer of construction equipment, the customer has every reason to feel secure in the value of their purchase.

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Warranted claims will be presented by the customer to the supporting Cat Dealer and will be administered at the local level. The supporting Cat Dealer will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customer.

Dealer Response

Empire Service utilizes a highly structured, fact based and scientific Root Cause Failure Analysis process that is followed by Empire's Service Department. The process ensures the customer that Empire and Caterpillar fully understand the cause, and what role each affected part played in the failure, in order to help prevent it in the future.

The warranty process for Caterpillar machines is unique to the industry, allowing Empire to decide through its due diligence alone, if the failed part is covered under the scope of warranty. In the event of a warranty repair, Empire is responsible for repairing the machine. Once the repair is completed, the warranted parts and labor is charged to Caterpillar.

Any non-warranty covered items (such as oil antifreeze; fluids that cannot be reused) will be the responsibility of the owner. In the event that Caterpillar concludes a different root cause and believes it was caused by misapplication or misuse and rejects reimbursement, and Empire does not, Empire will absorb the expense.

3. Description of your policy addressing warranty issues related to:
- i. Major Component Failures
 - ii. Engineering Deficiencies
 - iii. Describe your firm's standard response time to address warranty failure issues.

Caterpillar Response

Caterpillar is proud to offer the most robust warranty in the industry.

All defects in materials and workmanship are fully covered under the warranty period. All claims will be investigated by the supporting dealer and determined whether they fall under the warranty policy or under the category of normal repair and maintenance.

If there is a major component failure significantly earlier than its predicted life, the dealer will investigate to determine the cause of failure. Should the cause be determined to be design or manufacturing related, the customer, dealer, and a Caterpillar representative will work together to find a solution that is agreeable to all parties.

There is not a nationwide response time guarantee because machines, applications, repair requirements and availability needs will vary by geography and customer. In every situation, the dealer will work to resolve warranty issues as quickly as possible and/or provide an interim working solution.

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Dealer Response

As America's #1 dealer rebuild center, Empire inventories new complete components, along with remanufactured components, for replacement when a machine is down and the customer requires an emergency complete component replacement. Beyond Empire's extensive parts inventory, Caterpillar parts distribution warehouses across America and the globe also inventory an extensive selection of new components and remanufactured components.

Excluding emergency complete component replacement, Empire will bring to bear as many resources as possible to tear down and reassemble the down component, to return the machine to production as fast as humanly possible. This includes our staff working three shifts and/or weekends continuously or "around the clock" to achieve the turnaround if warranted.

Normal warranty coverage will only cover normal (non-overtime) shop labor rates, during normal service hours. Normal service hours are from 5:00 a.m. to 12:00 midnight, Monday-Friday and from 6:00 a.m. until 12:00 noon on Saturdays.

Warranty repairs may be performed in the field by Empire's highly trained field service technicians (travel charges may apply).

Overtime rate is charged for all hours worked on holidays. No other competitor that we are aware of provides this expanse of available normal service hours. When requested, Empire will work overtime with the incremental overtime fee charged to the City of Tucson. Normal warranty coverage only includes shop labor rates during normal business hours and thus could result in overtime charges to the customer. Additionally, parts that are not normally stocked may include a customer charge for additional freight or handling, depending on circumstances.

Engineering Deficiencies: Empire and our customers benefit from a long relationship with Caterpillar Engineering for new machines and product improvement testing. Because of our unique Arizona/Imperial County, California and territory, Caterpillar engineers prefer to test new machines and product improvements in Empire's territory because of the range and access to high ambient temperature, high altitude, sea level altitude, abrasive dust, hard caliche and granites soil and sand (dune) conditions. Our applications range from farming to forestry harvesting, to hard rock mining.

This multi-decade experience has provided Empire staff with a wealth of knowledge, experience, relationships and access to Caterpillar's engineering staff around the world. It has provided our customers with purpose-built machines and components tested here to perform here. This experience helps our staff identify a deficiency, quickly begin to test our possible solution, and offer it to Caterpillar; or fabricate, install and test Caterpillar's solutions.

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Empire's standard response times are based on the fact that our customer purchases a new machine because unscheduled downtime creates critical disruption to their production. Most customers expect that we will handle every machine-down warranty event like an emergency. We are "built for it". Empire invests and maintains the staffing capacity to provide customers two shifts per day, plus single shift on weekends and on-call staff for holidays to respond to these events with the utmost urgency.

Beyond this, a failure on Empire's part to deliver expected or promised service is always taken into account before any request for additional charges are presented to a customer. We take pride in the fact that Empire's owner expects all employees to consider first how we may have contributed to increasing a customer's expense or downtime. We are empowered, at all levels, to make ethical and fair charge adjustments before approaching a customer about additional expense to warranty coverage.

- c. Is there a dedicated support representative that the City should contact? If yes, provide their name and complete contact information.

Caterpillar Response

For all support related to this contract, the account manager at Caterpillar is:

Tirena Pavelka
 Governmental Account Manager
 100 NE Adams St.
 Peoria, IL 61629
 Office: 309-675-1589
pavelka_tirena_l@cat.com

Dealer Response

For dealer support related to this contract, please contact:

Shane Frazee
 Sales Account Manager
 7600 S. Nogales Hwy.
 Tucson, AZ 85756
 Office: 520-746-8224
 Cell: 520-330-8612
 Email: shane.frazee@empire-cat.com

Ty Robertson
 Product Support Sales Representative
 7600 S. Nogales Hwy.
 Tucson, AZ 85756
 Office: 520-746-8226
 Cell: 520-269-1171
 Email: ty.robertson@empire-cat.com

- d. Provide information which details the costs, types, and extents of available extended warranty coverage for heavy equipment.

Caterpillar Response

Additional extended protection plans are available for purchase. Three major types of protection are generally offered: Powertrain, Powertrain + Hydraulics, and Premier. In addition, Caterpillar offers a Pro extended warranty for Motor Graders only. Customization of Extended Protection Plans is possible.

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Costs for these extended plans vary by product, type of coverage, machine application and length of coverage. Because Cat Dealers are independently owned businesses with widely varying geographic territories, the actual costs associated to supporting such warranties will vary and cannot be quoted on a national scale by Caterpillar as fixed amounts. Such factors include but are not limited to the individual dealer's shop labor rates, transportation costs both for the machine as well as the technician and many others. It is recommended that warranty and extended protection plan considerations be clearly stated and agreed to prior to any transaction because of this contract taking place.

Dealer Response

With over 360 different Caterpillar products covered in this solicitation, and with over 65 different options for each of those machines with time and hour combinations, the matrix of extended warranty pricing would be too large to provide in this format.

Additionally, because of the competitive exposure, we are not at liberty to provide for public record, all of Caterpillar Insurance Extended Warranty pricing. For this proposal, we will provide requested rates on a model by model, term and hour specified basis.

- e. Describe how your firm is anticipating and ensuring compliance with the Environmental Protection Agency (EPA) emission changes.

Caterpillar Response

Caterpillar fully supports the efforts of the Environmental Protection Agency and we are proud to offer the largest number of machines meeting Tier 4 final emissions requirements. All new machines are fully compliant under current emissions regulations which do vary by horsepower and intended use.

Managing a broad global product line is challenging so to ensure we are properly prepared for any additional regulations; Caterpillar has a dedicated team of experts that works very closely with EPA officials.

In 2020, Caterpillar was once again named to the prestigious Dow Jones Sustainability Index (DJSI) List, marking the 21st time we have been included in the DJSI. Caterpillar leads its global peers in the Capital Goods sector in the areas of innovation management, risk and crisis management, labor practices and human rights, as well as corporate citizenship and philanthropy.

Dealer Response

Empire's technical resource group (similar to all Caterpillar dealers) has been engaged with Caterpillar engineers throughout the development of Tier 1, Tier 2, Tier 3, Tier 4i, Tier 4 Final, and future emissions requirements since the Federal regulations were implemented. Empire's (and our customers') ongoing participation of Caterpillar "Field Follow" program of prototype machines operated by customers in our territory, provides Empire both a first look and a wealth of experience in service support before production machines are ever produced for sale or delivered to a customer. Additionally, Caterpillar offers remanufactured exchange filters and Empire stocks them.

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As of this submittal, it is becoming more apparent that exchange emission filters available from our parts department are faster, safer, more environmentally responsible and more economical for the customer than the other option of maintaining a DPF cleaning machine at our dealership stores. For redundant support, in the event of an unexpected supply disruption from Caterpillar, Empire owns and operates two (2) DPF cleaning machines at our Phoenix store.

Along with the above service capacity, Empire provides on-line information, updated regularly, for the City of Tucson managers, supervisors and operators to help them understand how the technology works. Tips and warnings are constantly updated to help our customers stay informed and reduce the risk of emissions solutions damage. Empire requires continuing education for our Sales and Product Support staff as an incremental resource that helps customers stay informed. Our operator trainer staff is always available to our customers for on-the-job operator education of the technology.

- f. Submit all information that will aid the City in evaluating your proposal.

Caterpillar Response (only)

To view Caterpillar's achievements in sustainability, please view our most recent Sustainability Report at:

https://reports.caterpillar.com/sr/index.php?_ga=2.30262591.1428625582.1630336780-1389673808.1608044669



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4. Service

- a. Provide a detailed written response illustrating how your firm or the authorized dealers will provide services to meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements section of the Scope of Work outlined in this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:
 1. Provide detailed information explaining your service capabilities.

Caterpillar Response (only)

Caterpillar takes great pride in our foundation of outstanding product and customer support. While the actual service and support of products sold through this contract will be conducted by the selling dealer, Caterpillar supports their efforts through many channels.

We start by designing durable, reliable, long-lived products with ease of operation and service in mind. These products are thoroughly tested to validate the design. When approved for production, a very strict protocol is put into place to ensure strict adherence to the build plan. Quality inspections occur throughout the manufacturing process and again when it arrives at the local dealership.

Prior to first shipment, Caterpillar will ensure that dealer has access to Owning & Operating Manuals, Service Manuals, Parts Books, Disassembly & Assembly instructions and that their service technicians are properly trained on maintenance and repair procedures.

Every dealer has a process in place to troubleshoot and diagnose problems. Caterpillar also maintains a field force of technical representatives to ensure customer downtime is minimized. Factory service engineers work very closely with dealers in situations where a problem cannot be easily resolved and engage all resources necessary for problem resolution.

2. Provided detailed information explaining the service capabilities of your authorized dealers.

Caterpillar Response

Caterpillar leads the industry in offering outstanding product support. Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in the industry to reduce downtime and increase productivity.

All participating Dealers employ trained, experienced technicians to support Caterpillar's full range of products. Dealer Technical Communicators (TCs) provide additional support to field/shop technicians to aid in rapid product or application resolution. Dealer TCs have a direct line of communication with Caterpillar Inc. through the Dealer Solution Network to expedite problem solving.

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Caterpillar's North American dealer network currently employs over 59,000 employees of which approximately 70% are dedicated to the product support business. With nearly 700 dealer branch locations and approximately 7,000 field service personnel, these highly skilled and trained Cat dealer technicians are in close proximity to provide unmatched service capabilities to meet your servicing requirements. As a commitment to servicing our customers, Cat dealers invest over \$75 Million annually in technician, parts counter, and product support representative training. Over the last 96 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry through a financially healthy and viable dealer network that is dedicated to the business of our customers.

Caterpillar's ability to meet 24-hour service needs is based on servicing dealer discretion at time of transaction. However, most dealers offer a 24-hour emergency service call-out option with a price based on local market rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

U.S. Dealer Locations

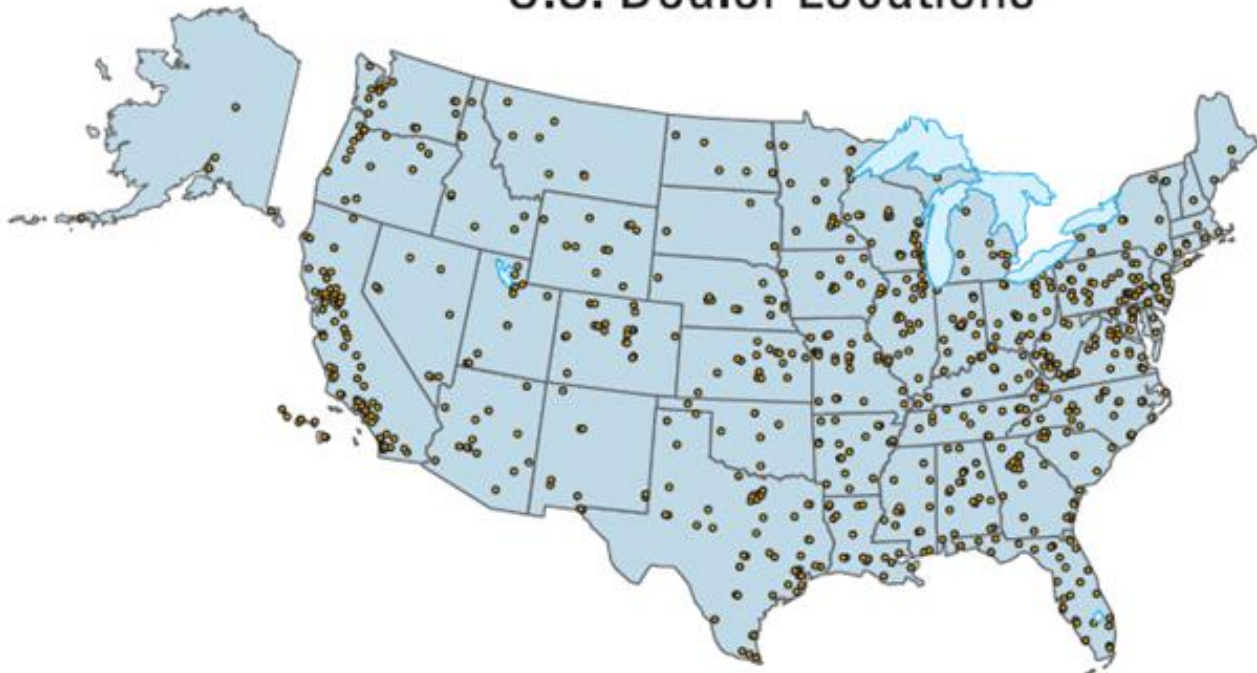


Image: US Dealer Locations

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Dealer Response

Empire has 22 stores that are capable of warranty service and have trained technicians to support warranty.

For very large components, some remote branch stores may not have the heavy lifting infrastructure or highly specialized machining tools to complete every job. Those components may be shipped to the closest Empire facility that can complete the work. All such transportation will be handled by Empire internally.

Empire Locations	Telephone	Address	
Apache Junction	480-308-9100	3215 S. Winchester Rd.	85119
Blythe	760-921-9500	190 S. Intake Blvd.	92225
Buckeye (Agriculture)	623-925-3020	26403 MC 85	85326
Buckeye (Rental)	623-474-0840	25630 W. Durango St.	85326
Casa Grande (Agriculture)	520-374-3500	8901 W. Highway 287	85194
Eloy	520-582-2900	3501 W. Houser Rd.	85131
Flagstaff	928-526-2800	4900 E. Empire Ave.	86004
Globe	928-402-6410	190 W. Ash St.	85501
Imperial	760-355-2443	3393 Highway 86	92251
Kingman	928-757-1159	3255 Rutherford St.	86409
Mesa	480-633-4000	1725 S. Country Club Dr.	85210
Mesa (Headquarters)	480-633-4421	256 W. Juanita Ave.	85210
Mesa (Training Institute)	480-633-4363	1855 S. MacDonald	85210
Mesa (Hydraulic Service)	480-633-4700	1835 S. MacDonald	85210
Mesa (Precision Machining)	480-633-4425	41 W. Iron Ave.	85210
Mesa (Transport)	480-633-4600	40 W. Iron Ave.	85210
Mesa (Used Parts)	480-633-4598	34 W. Iron Ave.	85210
Nogales (Used Parts)	520-287-6630	1604 N. Industrial Park Dr., Suite D	85621
Phoenix Deer Valley	623-760-1100	21230 N. Black Canyon Hwy.	85345
Phoenix (Power Systems)	602-333-5600	801 N. 44 th Ave.	85043
Phoenix (Truck & Trailer)	602-962-7961	840 N. 43 rd Ave.	85009
Prescott	928-499-6001	3060 Centerpointe Dr. East	86301
Show Low	928-532-2098	1501 E. Thornton St.	85901
Thatcher	928-387-8700	2574 W. US Highway 70	85552
Tucson	520-746-8200	7600 S. Nogales Hwy	85756
Tucson (Power Systems/Truck & Trailer)	520-407-3100	3830 N. Highway Dr.	85705
Yuma	928-317-7800	3885 E. Gila Ridge Rd.	85365

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Image: Empire locations

3. Describe the maintenance programs offered. If a maintenance program is selected by the City, will your firm provide a loaner or rental machine if the machine is down for more than 24 hours?

Caterpillar Response

All Cat dealers can offer Customer Value Agreements (CVAs), these can be customized based on customers' individual needs. When a service or maintenance program is created, the terms of the program supported by the local Cat Dealer will outline any replacement / loaner options.

A CVA is a hassle-free ownership plan to get the most from your Cat® equipment. Genuine Cat® Parts delivered right on time and right to your door, with instructions for hassle-free maintenance. You get the security of an Equipment Protection Plan (EPP) to avoid unexpected costs for unplanned repairs. All the keys to machine health management conveniently display on your phone. And it all can roll in with your monthly machine payment. It's one easy plan to leverage Cat value — beyond the machine — to maximize your investment and lower ownership cost. More information can be found at:

https://www.cat.com/en_US/support/maintenance/customer-value-agreements/construction-cvas.html

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Dealer Response

As described in Caterpillar's response, Empire and other Cat Dealers can customize maintenance programs to fit the specific needs of our customers.

The pricing for maintenance services explained below can vary based on the model, hours of usage, and duration of agreement, and can be quoted on an individual basis.

The following are some examples of the different maintenance agreements that are available:

- **PM (Preventative Maintenance) Services**

PM services are broken into five (5) categories and follow the manufacturer's service recommendations, or can be customized to meet customers' needs.

- PM1 – Services the manufacturer recommends at 250 hours
- PM2 – Services the manufacturer recommends at 500 hours
- PM3 – Services the manufacturer recommends at 1,000 hours
- PM4 – Services the manufacturer recommends at 2,000 hours
- PM5 – Services the manufacturer recommends at 4,000 hours

Empire and participating dealers can offer different options for these hour intervals including:

- Parts only agreements
- Parts and fluids only agreements
- Parts, fluids, and labor agreements

Please see generalized chart below for the services performed at each PM interval.

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	PM1	PM2	PM3	PM4	PM5
	250 hours	500 hours	1000 hours	2000 hours	4000 hours
Change Engine Oil, Engine Oil Filters and take engine oil sample	x	x	x	x	x
Speed Reducer Oil Gets Changed and Sampled (On Elevator Scrapers)	x	x	x	x	x
Check all fluids levels such as Transmissions, Differentials, Tandems, Hydraulic, Steering, Coolant.	x	x	x	x	x
Change fuel filters and fuel /water separators, clean fuel bowl screen (replace if necessary)	x	x	x	x	x
Change Primary Air Filters	x	x	x	x	x
Check Coolant Condition - Freeze point	x	x	x	x	x
Perform and record a visual walk around of equipment as per OEM including but not limited to Back up alarm, tires, batteries, belts, ground engaging tools (cutting edges, bucket teeth, dozer blade, Moe board, buckets, bowl (can), ripper shanks)	x	x	x	x	x
Change cab A/C filters	x	x	x	x	x
Lubricate all grease points	x	x	x	x	x
Inspect and test all visible and safety systems	x	x	x	x	x
Change all filters this includes hydraulic filters, transmission filters, differentials filters if applicable.		x	x	x	x
Change rear differential oil (Backhoe Loaders only on A-D Models)		x	x	x	x
Change front wheel oils in off highway trucks.		x	x	x	x
Change the Transmission oils, clean transmission screens and magnetic			x	x	x
Change swing drives oils on excavators , change differential and finals oils on backhoes.			x	x	x
Change hydraulic oils on AG tractors, telehandlers, vibratory compactors only, change chain case oils on skid steer loaders.			x	x	x
Change circle drive oil on motor graders			x	x	x
Change the differential and finals oils				x	x
Change tandem oil drive oils on motor graders				x	x
Change circle drive oils on motor graders according to OEM				x	x
Change hydraulic system oil.					x

• **Total Maintenance and Repair (TM&R):**

In a TM&R agreement, Empire and participating dealers will completely cover the equipment for any agreed upon repairs and preventative maintenance services for the duration of time and usage hours as specified by the agreement, based on the customer's needs.

TM&R's can be customized by the customer including, but not limited to, the following:

- With/without travel
- With/without scheduled component rebuilds
- Powertrain & Hydraulics
- With/without certain PM services
- With/without daily maintenance & cleanings
- With/without daily fueling (City of Tucson only)

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Exclusions in most cases include the following:

- Tires
- Glass
- Fuel
- GET replacement
- Components that contact the ground (bucket, blade, bed, bowl, etc.)
- Misuse and abuse
- Paint
- Any repairs due to customer not following the Original Manufacturer's Manual (OMM).

- **Man on Site Agreement:**

This type of an agreement can be offered on a stand-alone basis or in conjunction with other maintenance agreements for any customer that does not have the qualified staff/technician(s) or, is unable to add them.

Empire and participating dealers will provide a "man on site" for any duration of usage hours and time: Day, week, month, as specified by the agreement.

The technician will usually perform:

- Running repairs
- Preventative maintenance services

Other onsite services could include:

- Daily inspections
- Cleanings
- Operational checks

The "man on site" agreement includes a qualified technician, field service truck, and the tools needed to perform basic repairs.

Additional "man on site" Inclusions or exclusions in most cases include the following:

- Housing (when applicable)
- Overtime rates
- Unique equipment tooling costs: Large cranes, cribbing, certified shops, contamination control, etc.
- Percentage of guaranteed availability

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- **Daily Lube Agreement**

Empire, and participating dealers can provide daily grease to any machine at any of the City of Tucson sites, for any duration of time and/or usage hours to the specified needs of our customers.

Inclusions and exclusions in most cases include:

- With/Without daily cleanings.
- With/without daily inspections

We do not provide loaner machines. Empire will provide a down machine rental discount program (see details below).

For dealers representing any brand, contractual loaner guarantees have an incalculable financial risk. No dealer can guarantee 100% of the time that they will have a like-kind machine available and ready at any given moment.

But this deserves more explanation:

Our highly valued relationship with the City of Tucson demands we consider loaners in certain circumstances. However, that decision must remain solely at Empire's discretion and it will be one of several possible solutions for a down machine that creates a critical hardship.

At a minimum, Empire will provide a subsidized rental machine that is either an exact match or based on the City of Tucson's input, adequately sized unit at a 50% discount from Empire's rental rate. The City of Tucson will be responsible for the normal rental wear items associated with a rental for the duration of time the down machine is under warranty.

Additionally, if a down machine is causing a hardship to the City of Tucson from a habitual issue that Empire has not yet solved, the probability is high that Empire will provide a loaner at no cost to the City of Tucson, other than wear items. But again, that decision must remain solely with Empire.

Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in Empire's territory to reduce down time and increase productivity.

Empire only employs trained, experienced technicians to support Caterpillar's full range of products. Empire Technical Communicators (TC) provide additional support to field/shop technicians to aid in rapid product or application issue resolutions. Empire TC's have a direct line of communication with Caterpillar Inc., through the Dealer Solution Network, to expedite problem solving.

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Empire currently employs over 2,200 employees, of which approximately 73% are dedicated to product support. With over 22 service locations, over 190 service bays and over 300 field service trucks, these highly skilled and trained Caterpillar trained technicians are in close proximity to provide unmatched service capabilities to meet your service requirements.

As part of a commitment to servicing customers, Empire invests over \$3 million annually in technician, parts counter, and product support representative training. Over the last 70 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry, through a financially healthy and viable company that is dedicated to the business of our customers.

4. Describe your training programs, addressing, at a minimum, the following:
 - i. How will equipment training be conducted?
 - ii. Describe the training curriculum for the equipment operators.
 - iii. Describe the training curriculum for the service technicians.
 - iv. How will you accommodate various work shifts?
 - v. What type of documentation is provided with the proposed training?
 - vi. Is a "train the trainer" program available? Is this training different than the regular initial training? Can training sessions be recorded for future use by the agency?
 - vii. Is the training provided by the manufacturer, dealer or both?

Caterpillar Response

Cat Dealers support a variety of training options. Upon delivery of the machine, operators as well as technicians will be given basic equipment orientation, operating procedures, and service maintenance information required to put the machine into service. Should an agency require additional training, such consideration can be included in the customer's equipment quotation.

Caterpillar also offers a variety of operator training classes that provide certification to those agencies that require a higher level of operational expertise. For additional information on these and other training options, please visit: http://www.cat.com/en_US/support/operations/cat-training.html

Dealer Response

- i. How will equipment training be conducted?

Empire will travel to whatever organization site the City of Tucson requests, to provide both operator and preventative maintenance training.

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ii. Describe the training curriculum for the equipment operators.

Empire offers comprehensive operator training for all Caterpillar machines by our Certified Dealer Instructors (CDI). CDI's are dedicated full time to this process. CDI's are Caterpillar Certified on various applications for individual machine groups. Empire does not depend on a service technician or machine salesman to provide this critical task. CDI's begin the ownership experience by providing customers the most thorough "in-service" training and orientation in the industry. This service is provided at delivery of ALL new Caterpillar machines.

The operator training includes complete machine walk-around inspections, discussion regarding daily maintenance/checklists and hands-on operational instruction, along with comprehensive coverage of the Operations & Maintenance Manual. Proper operator understanding is a significant advantage to help reduce the operating cost per hour of the machine life cycle.

The orientation will cover the following:

- Coverage of the Operation and Maintenance Manual, including a complete safety and service daily walk-around inspection
- Hands on demonstration of all wet and dry fluid and filter locations and compartments
- All safety decals and their meaning along with examples of incidents
- All machine controls, functions, features
- Live demonstration (where site allows) of machine reaction to control inputs
- Review common operator misuse or abuse habits and resulting damages (i.e. damaging parking brakes)

Additionally, our Operator Training Department permanently staffs a Training Manager with seven Certified Dealer Instructors traveling throughout Arizona, performing new machine delivery training, certified training and refresher courses along with analyzing production improvements for in-specific applications when requested.

Empire provides this for both public and private customers, for an additional charge, when requested.

iii. Describe the training curriculum for the service technicians.

Our service delivery training begins with Safety. Our instructor will cover all the safety decals and their explanation of why, as it's described in the Operation & Maintenance Manual. The following is an outline and agenda for a training session.

Safety: All decals and what they mean along with examples of past events.

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Pretest: Caterpillar Safety Test must be passed by all attendees before continuing.

1. Equipment Familiarization
 - a. Walk around inspection
 - b. Daily service points/lubrication
 - c. Cab and controls
 - d. Fundamental techniques
2. Start Up/Shut Down
3. Machine Operation
4. Systems Overview
 - a. Operator's station
 - b. Engine
 - c. Electrical system
 - d. Power train
 - e. Implement and steering hydraulic systems
 - f. Auxiliary hydraulic lines
 - g. Thumbs
 - h. Buckets
 - i. Couplers
5. Post Test
6. Review Maintenance Section of Operation and Maintenance Manual
 - a. Lubricants and fluids
 - b. Towing
 - c. Review PM checklist and procedures
 - 250 Hour
 - 500 Hour
 - 1000 Hour
 - 2000 Hour

In addition to our Service delivery process, Empire offers a dedicated facility and dedicated full time staff in our Training Institute:

The Empire Training Institute (ETI) is one of five Caterpillar Certified Regional Dealer Learning Centers in North America, and one of just three Caterpillar Certified Applied Failure Analysis training facilities. ETI provides both technical and non-technical training programs for Empire employees, customers and other Caterpillar dealers via instructor-led and web-based training courses.

ETI is a dedicated 36,000 square-foot facility with eight fully equipped classrooms and over 10,000 square feet of shop space. Our experienced staff includes eight Caterpillar certified technical instructors, one soft skills instructor and one safety instructor.

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Classes can be scheduled and conducted at the Empire Training Institute facility at Empire's Mesa campus or at customer sites. All training courses utilize "pre and post" testing procedures to measure learning and monitor growth, and students are presented with a certificate upon successful completion.

Training topics include, but are not limited to:

- Safety
- Diesel
- Electrical
- Engines
- Applied Failure Analysis I, II and III
- Hydraulics
- Machinery & Equipment
- MSHA for Experienced Miners
- Powertrain
- Preventative Maintenance
- Air Conditioning for EPA Certification

Empire recently added a wide variety of virtual training courses that are available to technicians. These courses were added after the Covid-19 outbreak in 2020, allowing technicians to receive training, regardless of travel restrictions, and/or for those who have limited or no travel budgets for in-person training at Empire's training facility.

iv. How will you accommodate various work shifts?

Empire will provide training and accommodate any shift the City of Tucson requires.

v. What type of documentation is provided with the proposed training?

Caterpillar's Delivery Service Record provides a safety and service daily check list that our CDI's follow at machine delivery orientation. Signatures on the form require a City of Tucson representative to confirm the list was reviewed and completed.

vi. Is a "train the trainer" program available?

Yes.

Is this training different than the regular initial training?

Yes, the training curriculum is focused on the trainer and how to communicate proper operating techniques and safety, and why it is important. Initial training is focused on the student.

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Can training sessions be recorded for future use by the agency?

Caterpillar does not permit recording, copying or transferring any of copyrighted material, either at our Operator Training Academy or customer sites. Empire maintains Caterpillar's proprietary information and copyright policies.

vii. Is the training provided by the manufacturer, dealer or both?

Both manufacturer and dealer can provide training.

5. Ordering and Invoices

a. Describe your order process.

Caterpillar Response

Understanding that Cat Dealers have been developing and maintaining customer relationships at the local level for more than 96 years, it is Caterpillar's intent to continue to support this proven model. It will be the local Cat Dealer that will quote, deliver, receive payment, and support the products in this proposal per the terms that have been outlined

Dealer Response

Machine invoices will be generated after receipt of a City of Tucson purchase order at Empire.

The invoice includes:

- Name of agency
- Department receiving (if supplied on purchase order)
- Contact name
- Machine Serial Number
- Machine price
- Applicable taxes
- Freight from Empire to agency
- Machine configuration (if requested)

Machine payments are due 30 days after receipt of invoice.

Terms of our invoices are available at: www.empire-cat.com/sales serviceterms

b. How do agencies work with your firm to determine appropriate equipment needs?

Caterpillar Response

Cat Dealers have sales and application specialists who can help an agency identify the best equipment option to fit the application. Once a need has been identified, it would be in the customer's best interest to consult with the local Cat Dealer to determine the best possible equipment solution. Should additional expertise be required, Caterpillar has expertise within the company that can also help ensure the most favorable outcome.

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Dealer Response

Initial contact will begin with our Sales Account Manager. A dealer Account Manager has extensive knowledge and experience in machine and attachment applications can assist the City of Tucson personnel in determining the best options.

Beyond this, the Account Manager will help the City of Tucson staff build a cost/benefit analysis to help illustrate why one machine or attachment was selected over other options. If the Account Manager believes the application question needs additional expertise, he is highly proficient at navigating Empire and supplier resources and bringing their expertise to bear.

Caterpillar has several software resources to help calculate cost per hour and cost per ton of machines, such as Cat Turbo, FPC or VET, to help users select the best machines, configurations and attachments. The Account Manager will utilize these resources to help the City of Tucson analyze options.

Additionally, if the Account Manager is asked to help research the best machine for an application and he believes that our offering is not optimum, and knows a competitive product or supplier that would be, he will explain why and help coordinate contact with the supplier, if requested by the City of Tucson. We recognize that not all of our offerings are the best and most economical fit for some applications and will readily explain so when we are asked to be part of the best solution analysis.

- c. Describe the equipment delivery process and your delivery commitment.

Caterpillar Response

It will be the local Cat Dealer that will quote, deliver, receive payment, and support the products in this proposal per the terms that have been outlined.

Dealer Response

Most products can be sourced from Empire's extensive inventory. Our configurations are based on the optimum feature utilization and most effective cost per hour in Empire's territory. In the past, most City of Tucson units have been custom ordered because of minor configuration differences. We feel that the City of Tucson will benefit from most of the configurations we stock. This benefit is in terms of: Time of delivery, higher potential productivity, and potentially lower operating costs.

In the event we need to order a machine, the manufacturer will provide Empire a "Ready to Ship" (RTS) date. Empire will estimate additional days based on subjective experience with that manufacturer's history of accurate RTS dates. Empire will also add expected freight time. Since there are various events beyond our control such as severe weather, strikes, or U.S. Custom holds at docks, a small percentage of our given delivery times can and do extend. Empire will alert the City of Tucson immediately if we believe a committed delivery date will extend and work out a solution if the need is urgent.

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d. What is your standard equipment delivery timeframes?

Caterpillar Response

Depending on Cat Dealer inventory, delivery can be as quick as a day, but depending on demand, orders from the factory may take as long as 180+ days to deliver. In most cases Cat Dealers have been able to commit to a less than 90-day delivery timeframe. However, timelines need to be confirmed for each purchase.

Dealer Response

If Empire's configuration is acceptable and we can supply from inventory, we can usually deliver in less than seven calendar days. If it is urgent, we will work nights and weekends to supply a unit sooner. A significant percentage of our deliveries happen in less than three working days from receipt of firm order.

The next source for machine availability is Cat's Product Distribution Centers (PDC). PDC's have their own configurations, but most are very close to the Empire configuration. If a machine from this source has acceptable configurations to the City of Tucson's request, these machines will usually ship within 7 days and arrive at Empire within 14 days.

Additionally, Empire works with nearly every Cat dealer in the United States for trading inventory. We have an excellent reputation of helping other Cat dealers secure units from our existing inventory and our "on order" inventory. In other words, we give more than we take, which helps us secure earlier delivery several times a year and unit can usually arrive within 10 days.

If a unit must be factory ordered, we have no standard delivery time frames. Caterpillar claims 65%+ of their units will be "Ready to Ship" within 12-16 weeks. Allied manufacturers have too many variables to provide relevant estimates here. If Empire is awarded this contract, they will be quoted as needed.

e. How does your firm communicate order cut off dates to your customers?

Caterpillar Response

Any questions with regards to an order will be addressed by the local supporting Cat Dealer.

Dealer Response

For machines and attachments, the Empire Account Manager, will provide the City of Tucson with RTS estimates upon request.

Parts – Hours of Operation

When parts are needed, Empire has been the trusted and tested source to provide them, regardless of the time of day. In a crisis or emergency, Empire has the infrastructure and people in place to provide the parts that others cannot.

- Parts are available 24 hours/7 days a week/365 days a year
- Standard business hours for Empire's Parts Stores are:
 Monday – Friday from 7:00 a.m. – 5:00 p.m.

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After hours/emergency parts service is available by calling a store's main number. (Store contact numbers can be found in list provided in this response, which lists dealer locations and contact information.) This service is available anytime outside standard business hours. When a call is placed, an Empire parts representative will respond, locate the parts needed, and arrange to meet at the store for pick up.

- f. Identify and describe any exceptions or challenges.

Caterpillar Response

Should an urgent US military equipment order be placed at the factory it will take precedence over any other customer orders which may delay the actual delivery of any non-military orders to the end user.

Dealer Response

Historically, Empire's most common challenges in delivery of machines have been due to severe winter weather in the mid-west and U.S. Customs holds for freight shipments at U.S. shipping ports.

With regard to parts, Caterpillar/Empire has experienced challenges when suppliers to Caterpillar of a sub component part fails on hundreds of machines in a short time. A cascade of challenges begin at that point. Usually the manufacturer's parts supply is depleted and because of the unanticipated demand, the supplier cannot ramp up production of the correct part in the normal time most Caterpillar owners have come to expect.

Throughout our 70 year history, we have faced a number of these challenges. Customers want answers. Depending on the severity, it can take a few days to diagnose the root cause before we can begin to respond to repair affected machines.

Because of Arizona's unique geography, high elevations, hard material, and high ambient temperatures, many machine failures can show up in Arizona before the rest of the world experiences them. These events have taught us to maintain a hyper awareness of developing issues. Empire is usually the lead dealer to discover the issue and help Caterpillar (and other dealers) with the solution. These events help our staff stay highly vigilant in providing early identification and developing solutions for our customers.

- g. Provide details of the capabilities of your E-Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

Caterpillar Response

Parts.cat.com is a Caterpillar eCommerce site that allows any customer to purchase parts from their local Cat dealer. The site platform is customized by the local dealership, creating a unique purchasing experience best suited for their customers. Some of the features and benefits for our customers include:

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- Inclusion of new, Cat Reman, and dealer exchange options
- Easy search by equipment serial number to access parts manuals and service information for that specific serial number
- Time-saving features such as Saved Order Lists and Shopping Preferences
- Planned maintenance kits
- Real-time price and availability
- Access to Parts.cat.com order history
- Customer-specific pricing (set up by local dealer)

Dealer Response

Empire's website does not provide any machine pricing for this contract. Our website does provide pricing for used machinery and used parts.

Empire Parts store is an online service that allows you to order parts from your computer. Some of the benefits are:

- Order parts anytime 24 hours/7 days a week/365 days a year
- Ability to track your part orders
- Electronic parts book for ALL Caterpillar machines
- Frequent order lists
- Shows available exchange/remanufactured options
- Track outstanding core returns for credits due
- Purchase history

Additional options available from www.empire-cat.com are:

- Equipment Management
 - On-Line Fluids Lab (Oil Sample Reports)
 - Track History for each component or machine
 - Custom graphing/charting trends
 - View Empire recommendations
- Vision Link-Vital Machine Operating Information (For machines equipped with Product Link, see below for Product Link details)
 - Asset Utilization
 - Hours
 - Fuel
 - Operation
 - Current Location (Google Maps)
 - Health Watch
 - Fault Codes
 - Fluid Analysis
 - Inspections (Requires Mobile App)

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- Geo Fencing
- PM Maintenance Tracking
- Production Tracking (requires additional accessories)
 - Pay Load monitoring
 - Project monitoring
 - Mass haul monitoring
- Vision Link also allows
 - Customized alerts
 - ✓ Type of alert and who is notified
 - Exporting data through API feed
 - Customize groups, sites and projects

Vision Link is the software end of the information from the machine sensor transmitted by Caterpillar Product Link. Product Link devices. Product Link devices. Product Link devices are activated in VisionLink as a subscription service, or can be included in Empire service agreements (CVA Plus/Premium, TM&R plans).

Product Link is included on most qualifying Caterpillar machines. Product Link can be dealer installed, for a nominal fee, on machines that Caterpillar does not supply as standard equipment. Generally, Product Link will be included on nearly every Caterpillar machine listed in this RFP. With the exception of just a handful of smaller models, such as a 300.9 micro excavator, it will be included on most common machines the City of Tucson is likely to purchase from this contract. Product Link data reporting capability and frequency may vary, depending on machine capability and device type installed.

Technical Assistance and Documentation

Caterpillar Electronic Technician (ET) features:

- Displays parameter status
- Displays active diagnostics
- Clear and view logged diagnostics
- Performs diagnostic tests
- Print reports and diagnostic results
- Perform calibrations
- Displays current totals information, i.e. fuel consumption, operating hours, etc.
- Integration to help files

Technical Information, Service Information Systems (SIS)

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The following items are available from SIS WEB subscription at no additional charge to the City of Tucson as part of this proposal.

- Applied Failure Analysis
- As Shipped
- Custom Service Information
- Disassembly & Assembly
- Engine News
- Engine Performance Specs
- Engine Tool Guide
- General Service Information
- Kits Information
- Microfiche¹
- Operation and Maintenance Manual
- Parts Identification
- Safety
- Schematic
- Service Magazine
- Special Instruction
- Specifications
- Systems Operation
- Systems Operation - Fundamentals
- Testing and Adjusting
- Tool Guide
- Tool Operating Manual
- Torque Specifications
- Truck Engine News

Empire Parts Service and Sales Representatives (PSSR) assigned to the City of Tucson will provide training with Caterpillar technical software. Product Support Sales Representatives work closely with all departments and divisions within Empire and will assist the City of Tucson with needs related to product issues and with navigating the Caterpillar product support offerings.

- h. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.

Caterpillar Response

Dealers can currently provide a pro-forma invoice prior to receipt of the actual invoice. Requests for electronic invoicing should be made to the selling dealer. Not all dealers are able to offer electronic invoices.

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Dealer Response

Is electronic invoicing available?

Electronic invoicing is available, if requested. Machine invoices will be generated after receipt of City of Tucson purchase order at

Empire. The invoice includes:

- Name of agency
- Department receiving (if supplied on purchase order)
- Contact name
- Machine serial number
- Machine price
- Applicable taxes
- Freight from Empire to agency
- Machine configuration (if requested)

Machine payments are due 30 days after receipt of invoice. Terms of our invoices are available at: www.empire-cat.com/sales serviceterms

Is summary invoice available?

Yes

Are there other options on how an agency receives an invoice?

Invoices will be sent by mail, electronically or can be verbally requested for pick up.

Submit sample invoices.

Samples will be included in the ATTACHMENTS section of this RFP.

- Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.

Caterpillar Response

Because machines are large purchases, customers will be assigned a sales representative to help ensure the process is executed without errors. Should something unexpected arise, the local dealer will have the ability to resolve any issues locally.

Defective products are covered by manufacturer's warranty.

Dealer Response

As described in Caterpillar's response, in most cases, working with Empire's Account Manager will alleviate wrong order issues. If Empire receives a purchase order and the quantity or configuration stated is, or seems not to be what was discussed, our Account Manager will attempt to notify both Procurement and the user department if Procurement approves.

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The vast majority of the time, we solve the issue at this stage. Errors of Empire's making are the responsibility of Empire. If the purchase order, or subsequent instruction in writing, is given by key personnel from the City of Tucson and Empire fails to correctly order the product, Empire will bear the expense of correcting it. If the item is in excess of what was ordered, Empire will remove it. If the item cannot economically be removed and it does not interfere with the production, safety, operator comfort, or expose the City of Tucson to additional operational expense, Empire may elect to leave it on the machine at no charge to the City of Tucson.

- j. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements.

Caterpillar Response (only)

Purchase orders received from a customer can be filled by an authorized dealer from inventory or by placing a new order from the factory. In either scenario, the customer will be advised about the timeline prior to delivery.

When sold, dealers are obligated to report the sale to Caterpillar with detailed information about the sale. This creates a record in the corporate systems so that we are aware when a sale has been made to a governmental agency using this contract.

Machine sales are only reported when the Dealer has input the transaction information into the system and the machine has been scored to the respective industry. The sales are compiled monthly and reported back to OMNIA.

- k. Titles- will equipment be provided with proof of registration with the state?

Caterpillar Response (only)

Where appropriate, all titles will be provided with proof of registration with the state.

- l. Will each product be delivered free of distributor advertising?

Caterpillar Response (only)

The buying agency and dealer can determine what advertising is appropriate or not. There will never be a manufacturer requirement for the machine to carry a company decal/logo or to include distributor advertising.

6. Other

- a. Describe any government rebate programs that may be applicable.

Caterpillar Response (only)

No specific governmental rebate programs are currently available.

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B. Qualifications & Experience

- 1) Provide a brief history and description of your company. Describe your market position in the local government, educational and medical market spaces. Include your current distribution model capable of delivering products nationwide, including the number, size and location of your company's distribution facilities, warehouses, and retail network, where applicable. Describe your coverage of the United States.

Caterpillar Response (only)

For more than 90 years, Caterpillar Inc. has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2020 sales and revenues of \$42 billion, Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives.

The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy we need our dealers, and our customers to be successful, for us to continue to grow profitably. It's a symbiotic relationship where all benefit when all grow together. This success is evident in the fact that many of our dealer s have been owned by the same family for multiple generations.

Caterpillar is the market leader and holds the highest North American share of the heavy equipment business. This leadership also extends to sales to governmental agencies. These figures are based on sales that have been publicly reported by our competition and does not consider market share adjustments for those not reporting.

One of the largest factors for Caterpillar's continued success is that our customers have realized that they get the best overall value when they purchase Caterpillar. When considering the total cost of ownership, it's important to include the following factors. For any specific product, the Cat dealer would be able to provide detailed information tailored to the local market.

- Operating costs (include fuel burn, a key trait for which Caterpillar is broadly considered most efficient)
- Maintenance costs
- Repair costs
- Safety design and performance
- Productivity
- Ease of operation
- Reliability
- Resale value

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- 2) Describe your dealer network and their role in providing products and services under this contract.

Caterpillar Response (only)

Cat machines and engines are distributed principally through a worldwide network of dealers. 45 dealers are in the United States, 2 in Canada and 114 located outside North America.

Caterpillar and Cat Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance, payment receipt and product delivery. In addition to sales, Cat dealers also will provide parts and service support. All Participating Dealers are financially healthy with no outstanding issues that would disrupt service within these territories. Cat dealers average more than 60 years of experience within their respective territories. Specific information about dealers is located on:

http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 59,000 total employees. Many dealers have enough opportunity in the governmental market to employ salespersons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to the product support business.

- 3) Provide a listing of key personnel who will be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.

Caterpillar Response

Nationally, the contract will be managed by:

Tirena Pavelka
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-675-1589
pavelka_tirena_l@cat.com

Dealer Response

For dealer support related to this contract, please contact:

Shane Frazee
Sales Account Manager
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8224
Cell: 520-330-8612
Email: shane.frazee@empire-cat.com

Ty Robertson
Product Support Sales Representative
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8226
Cell: 520-269-1171
Email: ty.robertson@empire-cat.com

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- 4) Summarize your experience in providing equipment, products and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.

Caterpillar Response

For the last 96 years, Caterpillar's principal line of business has been the manufacture, sales and support of construction equipment. Throughout our history we have worked in close consort with our authorized dealers and that successful model has not substantially changed since its inception.

We have many satisfied customers in public agencies and refer you to Empire Machinery's response for three local agencies who are pleased with their support.

It is also important to reference the working partnership between Caterpillar, Empire Machinery, City of Tucson and OMNIA for the past five years. The performance under contract # 161534 is evidence of a strong and successful relationship. It is our desire to maintain this high level of cooperation as we move forward under this new RFP. We are deeply appreciative of the confidence placed in our machines and service and we value your business. We will do everything possible to maintain your trust as we look forward to mutually beneficial contract going forward.

Dealer Response

References:

City of Phoenix
Contact: Lance Carlson, Equipment Control Specialist
2441 S. 22nd Ave., Phoenix, AZ 85009
602-262-4788
lance.carlson@phoenix.gov

Maricopa County
Contact: Gidget Vigil, Equipment Manager
3325 W Durango St. Phoenix, AZ 85009
602-506-4674
gidgetvigil@mail.maricopa.gov

Mohave County
Contact: Randy Janssen, Public Works Equipment Fleet Manager
3675 E Andy Devine. Kingman, AZ 86402
928-716-3020
randy.janssen@mohavecounty.us

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- 5) Please submit any additional information that you feel is applicable to your qualifications and experience.

Caterpillar Response (only)

Please review Caterpillar's Annual Report in this link:

<https://reports.caterpillar.com/ar/index.php>

- 6) Provide the qualifications of technicians that will be servicing equipment throughout the nation.

Caterpillar Response

All Cat dealers employ highly trained and experienced technicians that have completed numerous factory training programs. Each dealer can expound on their own specific requirements but overall, our technician capability is second to none.

Dealer Response

Empire Machinery's response is for Empire's territory only. All Cat Dealers employ service personnel, with all levels of experience, but will vary from dealer to dealer.

Empire employs over 1,600 trained technicians throughout Empire's territory. These technicians are highly trained, and the majority have job site experience in all industries including, but not limited to:

- Landfill
- Governmental
- Heavy Construction
- Highway / Road Construction
- Paving
- Mining
- Forestry
- Agriculture
- Power Generation
- Quarries & Aggregates
- Residential Construction
- Recycling

Additional Services Information

Empire Machinery provides the largest investment of any competitor in the following areas.

Service: Empire provides the largest number of both shop and field technicians in the State of Arizona. From the best data we can gather, we have more staff in each of the service areas than all of our competitive vendors combined.

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Empire Service Capacity Statistics (statewide):

- Field Service Technicians: 400+
- Service Trucks: 300+
- In Shop Technicians: 550+
- Technical Communicators: 13
- Service Managers: 27+ (all former shop or field technicians)
- 100+ Shop Lead persons
- 40+ Welders
- Average length of time in Service for all technicians: 10.5 years
- Many technicians at Empire stores have over 25 years of experience for other technicians to draw from

Years of experience in service staff are important to the customer. One of the highest costs of Ownership and Operating (O&O) costs is downtime. The faster a vendor can dispatch and arrive at a down machine (based on truck fleet capacity), trouble shoot the problem (based on experience, access to information or additional expertise), select and confer repair options with the customer, repair the machine (based on truck tool box capacity), only then can the absolute lowest expense be achieved, returning the machine to production.

It is difficult to quantify savings from assessing truck capacity and capability when trying to compare one vendor to another. The parts and labor expense in the cost of a work order are easier to compare and tend to be what receives focus rather than the difficult task to determine downtime expense or savings. The primary mission, and Empire's extensive investment in our Parts and Service Departments, is focused on reducing downtime expenses while being as efficient as possible.

Value Added Support Services

The ability of the local dealer to provide value added support services is an important consideration in the purchase of heavy equipment. Empire provides many of these value added services to reduce the operating cost and risk of machine ownership.

The following is a summary of Empire's value added services:

- Tractor Machining – With tremendous capacity for component restoration and repair, reuse and rebuild of machine components (ISO 9001:2015 Certified)
- Empire Hydraulic Service – Operating multiple shifts and capable of full service for all hydraulic brands (ISO 9001:2015 Certified)
- Empire Transport – Heavy haul with a fleet of 50+ trucks and capable of hauling loads up to 170,000 lbs. in the event of any emergency
- Empire Training Institute – Provides both technical and non-technical training programs for EMPIRE employees, customers and other Caterpillar dealers via classroom and web-based training courses

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- Technology Products and Services – Sitech Southwest, a wholly owned subsidiary of Jeff Whiteman (CEO of EMPIRE), offering a full range of technology solutions and technology support.
- Wear Analysis – Empire's own laboratory, processing 142,000 samples annually (ISO 9001:2015 Certified). The wear analysis allows a customer to repair a component or tractor before failure.
- In-Shop Services – With multiple shifts, over 550+ factory certified technicians and Empire's capability as the largest powertrain rebuild dealer in North America.
- Field Service Capability – 24 hours/7 days availability of over 300 field service trucks, along with Empire's most experienced technicians (10.5 years average experience)
- Empire Power Systems – Provides turnkey solutions, service and temporary power for data centers, life support systems, telecommunication and construction. Empire also offers reliable, cutting edge solar solutions to commercial customers.

- 7) Describe your quality control program including but not limited to: what is your quality control procedures, who performs the quality control inspection? What are the qualifications of the inspectors? What items are inspected / tested? Etc.

Caterpillar Response (only)

Quality levels are at the highest in company history. In 2013, Caterpillar implemented Lean methodology. Lean is built on a strong foundation of 6 Sigma and Caterpillar Production Systems (CPS). Lean is how Caterpillar eliminates waste and drives efficiencies. By standing up quality gates throughout the production processes, Caterpillar can stop any defects to external customers – first by catching them at the quality gates, and then by eliminating them. Lean has been deployed at more than 94 production facilities throughout the enterprise.

In the production facilities, qualified technicians perform a battery of tests to ensure that the products leaving Caterpillar plants are operating to the outlined specifications before delivery to the customer. These tests cover the electronic system, hydraulic systems, and powertrain systems on every machine we build. In addition to static testing procedures, trained operators perform a series of road tests and simulated operational maneuvers in dedicated locations at the plant prior to shipment. Should a machine exhibit any functional issues or fail a quality control benchmark at any point in the manufacturing process, the production line will either be shut down to remedy the issue or the machine will be removed completely from the production line. The unit will then be assigned a specific troubleshooting cell to perform the necessary corrections or repairs at which point it will be re-subjected to the battery of tests until such time it meets Caterpillar's quality control standards.

Upon arrival at a dealership. A detailed pre-delivery inspection will be performed. Any deviations from expected condition or operational performance will be noted, reported, and corrected before delivery. It is also recommended for the customer to inspect the machine prior to first use.

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C. Price Proposal

- 1) Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following: Offerors shall submit pricing based on the Equipment, Product Requirements and Service Requirement categories identified on the Scope of Services. Pricing should be based upon a verifiable pricing structure, such as a fixed percent discount from an index or indices or established price list, etc. Where applicable, Offerors shall provide pricing for all product and services offered. Describe how pricing is determined for a base model equipment purchase and how pricing is determined for options, accessories and services. Identify the price list being used and include an electronic copy (or website link) so that net prices can be determined.

The price proposal should include pricing for equipment, accessories and options, parts, service and any additional value-add goods or services available such as financing, rental and used equipment for purchase from the vendor. Vendors must indicate if discounts are based on manufacturer price lists or dealer price lists.

In order to allow ordering flexibility for equipment that is mounted to a chassis, Offerors should provide a separate pricing structure for each the chassis and the truck, in addition to a total pricing structure for the complete piece of equipment.

Caterpillar Response

Each Caterpillar machine model will be assigned specific discount off the manufacturer's published list price for that particular machine and or piece of equipment. This discount will be extended to all additional options from the machine / option price list that are requested by the customer and become part of the final machine configuration. The published list price for the base machine and/or any additional options included in the published machine / option price list will be considered the maximum allowable price for the specific final machine configuration. The associated discount will be considered the minimum discount that the local supporting Cat Dealer will be required to honor.

Any additional items above and beyond those included in the Caterpillar Price Lists such as prep, extended warranties, delivery costs, customer service agreements, pre-delivery and installation will be priced at the supporting Cat Dealer's discretion no higher than prevailing market rates.

Financing for new and used Caterpillar products is available through a variety of financial products including Installment Sales Contracts, Finance Lease and Operating Lease contracts. Rates and terms will be determined locally.

To provide even more customer solutions, Caterpillar will be supporting a special Used Equipment program for customers that choose to purchase products using this contract. Except for Cat work tools, Caterpillar will be extending a 20% discount off the original list price of used Caterpillar equipment that is currently in the Cat Dealer's rental fleet. At their discretion, Cat Dealers will have the ability to extend this program to customers for the purchase of work tools. Please note that this used program is subject to availability.

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Parts, service work and rental are also available through this contract. There is no national price list for these and as such prices will be determined locally based on volume of purchases and prevailing market rates.

All pricing discounts will be included in the "Pricing Structure" attachment in the ATTACHMENTS section of this RFP.

Dealer Response

- CONFIDENTIAL - (Request confidential treatment)

Empire Machinery and other dealers across North America who choose to participate, offer the following parts, service, rental, and accessories discounts as part of RFP# 212816.

Dealer Related Parts, Service, Rentals, and Accessories	Minimum List/Card Discount
Rental Rate Discount	15%
Used Machines Purchase Discount	20%
GET (Ground Engaging Tools) Discount	25%
Base Edge and Adapters	14%
Filter Discount with TM&R Agreement	20%
Undercarriage Discount	15%
Power Systems Rental Rate	15%
Power Systems Used Purchase Discount	20%
Used Work Tools	14%

Allied product discounts will be included in the "Pricing Structure" attachments in the ATTACHMENTS section of this RFP.

2) Based on your distribution network, explain how freight is calculated.

Caterpillar Response

The freight and delivery costs vary by product and will be quoted separately. Our products are manufactured in locations around the globe and vary considerably in size and weight so costs to transport our products to the selling dealer will also vary widely. However, some models include the cost of freight in the List Price of the machine.

If the customer chooses to have the dealer deliver those machines to the purchaser's location the cost would be calculated based on the distance from the dealer's place of business. The dealer will quote actual shipping and prep costs for each machine quoted through this contract.

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Dealer Response

Freight is calculated in two different manners, depending on model, for Caterpillar:

- Caterpillar Included in Price: For every Caterpillar construction model listed in this RFP, freight is included in the list price and is not a line item on the price list. Caterpillar dealers have zero control on this process. Caterpillar models handled in this manner are referenced as “FOB Dealer” in the Caterpillar price pages. For Empire, the majority of our Caterpillar orders are shipped directly to Empire’s Eloy facility where we prep the machine prior to sale. The only freight cost charged would be if Empire delivers the machine(s) from Eloy to the City of Tucson yard or jobsite. This freight cost will be shown as a line item on the quote, prior to delivery. Empire does not “mark-up” or profit from freight. This is a “pass through” expense to the City of Tucson.
 - Empire Quoted: On some regional type models such as larger mining machines, Empire is responsible for the freight from either the factory or the port. Empire utilizes an RFP to quote pricing in advance for each of these models. Five to seven national freight companies compete against each other using this bid system. Empire will use this pricing methodology to determine the freight on each individual model.
 - Allied Products: Allied freight varies from manufacturer to manufacturer. Some provide managed freight; some quote dealers “FOB” their factory. Empire will provide a written quote from the vendor at time of quotation to recapture these freight costs. Depending on the product, delivery freight from Empire’s location to the City of Tucson may apply. Same terms as described above in the first bullet, “Caterpillar Included in price”, will apply.
- 3) The discount structure provided by the supplier is intended to remain constant throughout the term of the Contact. Discuss how often price lists are updated and provide a listing of price list changes that have taken place over the last 3 years. Discuss any known future price list changes or industry changes that will effect pricing over the next 5 years.

Caterpillar Response

Several factors will come into play when looking at possible price adjustments. Given that our machines and their components are largely made up of a variety of metals, commodity prices will have a significant impact on how pricing is adjusted moving forward. Combined with the fluctuation in fuel cost, rubber prices as well as the cost associated to the development of technologies associated to meeting emissions regulations, we expect the prices of heavy equipment to continue to rise. With this uncertainty, Caterpillar is asking that the most current published pricing be that which is used in the quotation of equipment for this contract by the supporting Cat Dealers. Failure to do so may limit Caterpillar’s ability to commit to the pricing terms as outlined in this solicitation.

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Typically, price changes go into effect on the first business day of the calendar year. However, Caterpillar reserves the right to adjust prices up or down as needed with an understanding that price changes may impact purchase intentions. Pricing is typically based on the date a machine ships from the factory.

When Caterpillar determines a need to make price list corrections/reductions we reserve the right to adjust discount structures as long as that discount change is not detrimental to the customer.

With more than 300 products, Caterpillar introduces new products and removes outdated products periodically throughout the year. Caterpillar will provide the City of Tucson an updated equipment list and discount structure when these changes take place.

Past and Future Price Increases	
JAN 2018	-8 – 0%
JUL 2018	1.5%
JAN 2019	0 – 4%
JAN 2020	1 – 2% plus 2% - 9 emissions on D6, D6XE
JAN 2021	0 – 3.2%
JUL 2021	2%
OCT 2021	0 – 5%

Dealer Response

Empire will honor our discount from Caterpillar list prices to the City of Tucson for the term of the awarded contract. However, as a dealer we have no control over when the manufacturer announces price increases or how much those increases will be. Over the last three years, the prices have changed hundreds of times.

With regards to price list changes, Caterpillar modifies the price pages often. These adjustments affect base price, configuration item price, internal vendor change, causing a reference number change, etc.

Listed below are a few examples of the number of times Caterpillar made price adjustments between 01/01/2021 and 09/01/2021.

Model	Price List Changes
M318	11
308	10
CB2.7	8

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- 4) State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.

Caterpillar Response

Cat Dealers are independently owned and as such Caterpillar does not have the authority to dictate pricing. The discounts being supported by Caterpillar in this proposal are the best discounts Caterpillar currently offers to Cat Dealers on a national scale. It is the intent that with the "Maximum Price / Minimum Discount" model, that all Cat Dealers will have the flexibility to extend the lowest price possible to the agencies who choose to use the contract. Manufacturer's incentives may be periodically provided and may be regionally based.

Dealer Response

Above and beyond the discounts stated in the price proposal/discounts section of this RFP, Caterpillar or Allied manufacturers may offer additional discounts beyond the minimum table. These incremental discounts may be short term (seasonal) programs or multiple unit discounts for a single transaction.

Incremental or additional discounts come from cycles of increasing or decreasing demand from the marketplace. If a manufacturer cannot produce the quantities to supply the opportunity, their incremental discounts are usually zero. Conversely, if they are targeting a new product, have over produced, or feel they are losing crucial market share in a region, they may offer dealers a temporary or seasonal additional discount with the intent it will incentivize dealers to stock more, or end users to pull purchases forward.

In the event additional or incremental discounts are available, Empire will pass these discounts on to the City of Tucson when "current" pricing quotes are requested. These quotes will show the contract minimum discount along with any additional or incremental discount and their expiration dates. These incremental discounts are usually labeled as "incentives" and they can have a very short life. Empire will explain to the City of Tucson their origin, amount and termination date.

Occasionally, Empire can negotiate termination extensions when the City of Tucson wants to take advantage of an incremental discount, but requires additional time to secure funding and approval. Empire is compelled to add: "Occasionally" means we are successful at securing extensions fewer times than not.

Empire offers a guaranteed buyback program for governmental clients only

Empire offers a minimum buyback for a certain duration of time or hour range. Buybacks allow agencies to predict what their machine is guaranteed to be worth, based on the length of term they choose and the hours they will put on it. The terms are usually between three (3) and seven (7) years and are usually based on 500 to 1,000 hours of usage per year.

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This allows Agencies to easily determine the ownership cost, of what a machine costs them, over a certain period of time or by the hours they need to operate a machine. All buybacks are subject to Empire's return "terms and conditions" and require a signature of acceptance. A copy of Empire's buyback terms and conditions will be provided upon request.

- 5) Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

Caterpillar Response (only)

No additional volume rebate program is included in this proposal, however customers and their local Cat Dealer may enter into agreement for additional discounts and or other value added provisions within the spirit of the "Maximum Price / Minimum Discount" model for volume purchases that are in line and conform to all the terms and conditions covered by the contract.

- 6) Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts.

Caterpillar Response (only)

None available at this time

- 7) As stated in the Instructions to Offerors, Discounts, the price(s) herein can be discounted by 0 %, if payment is made within N/A days. These payment terms shall apply to all purchases and to all payment methods.

- 8) Will payment be accepted via commercial credit card? Yes X* No

a. If yes, can commercial payment(s) be made online? Yes No

b. Will a third party be processing the commercial credit card payment(s)? Yes No

c. If yes, indicate the flat fee per transaction \$_____ (as allowable, per Section 4.9 of the MasterCard Transaction Processing Rules).

d. If "no" to above, will consideration be given to accept the card? X* Yes No

Caterpillar Response (only)

*Commercial Credit Card acceptance (online or in person) limits are determined by the selling dealer. Not all dealers will accept payment by credit card. Limits and conditions may be imposed by the local dealer. Each independent dealer structures their business as they deem appropriate and can advise on transaction fees and processing systems.

Cat dealers, either independently or in conjunction with Cat Financial may offer lines of credit to governmental purchasers.

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- 9) Does your firm have a City of Tucson Business License? X Yes No
a. If yes, please provide a copy of your City of Tucson Business license.

Caterpillar Response

Caterpillar is proud to have a large presence in the City of Tucson with 600+ employees to the city. However, that office conducts no retail business and as such does not hold a business license.

The local Caterpillar dealer, Empire Machinery, does have a City of Tucson Business license.

Dealer Response

A copy of the City of Tucson Business License issued to Empire Southwest LLC (dba Empire Machinery) is included in the ATTACHMENTS section of this RFP.

E.2 Forms to Be Filled out by Vendor

Please ensure that all required information is included with your offer:

- A. Living Wage Certification Form (If applicable)
- B. Pricing Proposal
- C. Any Solicitation Amendment(s)
- D. Offer and Acceptance Form
- E. OMNIA Partners - Exhibits

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F. SPECIAL TERMS AND CONDITIONS

F.1. FEDERAL, STATE AND LOCAL TAXES, LICENSES AND PERMITS: The Supplier shall comply with all Federal, State, and local licenses and permits required for the operation of the business conducted by the Supplier as applicable to this Contract. The Supplier shall, at no expense to the City, OMINA, or other Participating Public Agencies, procure and keep in force during the entire period of the Agreement all such permits and licenses.

F.3. PAYMENTS: All payments made by the City of Tucson for goods or services will be made to the vendor named on the Offer and Acceptance form. If you do not wish payment to be made to that address, you must submit an attached sheet indicating the proper mailing address with this proposal.

F.4. RIGHT TO TERMINATE FOR CHANGE IN OWNERSHIP OR MATERIAL RESTRUCTURE OF THE CONTRACTOR: In addition to the Termination of Contract clause in the Standard Terms and Conditions section of this solicitation and resulting contract, the City reserves the right to cancel the whole or part of this contract within 60 days written notice of the completion of any material change of ownership in the Contractor's company, including its sale, merger, consolidation, or dissolution.

F.5. TERM AND RENEWAL: The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled, or extended as otherwise provided herein. The Contractor agrees that the City shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

Any, project agreements or maintenance agreements executed against this Master Agreement during the effective term may survive beyond the expiration of the Master Agreement as established and agreed to by both parties.

F.6. PRICE ADJUSTMENT: The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.

F.7. MODIFICATION OF TERMS: A Participating Agency who wishes to piggyback on this Contract may present alternate terms to the Contractor as a condition of their intended purchase transaction. If the Contractor chooses to accept the alternate terms, it shall be as a condition of the Participating Agency's purchase transaction and shall not constitute a modification of this contract.

F.8. BRAND OR TRADE NAMES Any manufacturer's names, trade names, brand names or catalog numbers used in the solicitation are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict any bid/offer

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by any vendor but is only listed in order to advise potential bidders/offerors of the requirements of the City. Any bid/offer which proposes like quality, design or performance will be considered.

F.9. CANCELLATION OF LEASE DUE TO INSUFFICIENT FUNDING

The successful Bidder/Offeror will be required to agree to the following:

The City reasonably believes that sufficient funds can be obtained to make all payments during each of the renewal terms. The City hereby covenants that it will do all things lawfully within its power to obtain and maintain funds from which the payments may be made, including making provisions for such payments to the extent necessary in each annual fiscal year budget submitted for the purpose of obtaining funding or by obtaining separate funding by a third party.

If after formal written budget request submitted by the City, the Mayor/Council does not allocate funds necessary to continue payments for the renewal term, the City may terminate this agreement at the end of the fiscal year term. Parties acknowledge and agree that it is their intent that funding by the City shall continue throughout the term of this agreement, but the parties recognize that such funding is subject to the provisions of A.R.S. Sec. 42-301, et seq. in the event of non-allocation of funds. Lessor shall have only the right and remedy of taking possession of the equipment.

F.10. COOPERATIVE PURCHASING

Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Business Services Department or registered with OMNIA Partners are eligible to participate in any subsequent Contract. See http://www.tucsonprocurement.com/coop_partners.aspx and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.mesaaz.gov/home/showdocument?id=23638> for a listing of participating agencies. The parties agree that these lists are subject to change.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each Participating Public Agency. The Contractor may negotiate additional expenses incurred as a result of Participating Public Agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Business Services upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

F.11. CONFLICTS OF INTEREST

An Offeror responding to this RFP acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure a Contract that may be awarded pursuant to this RFP upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the City of Tucson Mayor and Council or any employee of the City has any financial interest in Offeror's firm. In addition, all communications regarding this solicitation shall be directed to

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the Department of Business Services. Interested Offerors shall refrain from engaging in any communication (written or verbal) regarding this solicitation or the matters involving this solicitation or TCC operations with any other City staff, Mayor & Council or staff of Mayor & Council.

The City reserves the right to disqualify an Offeror from further participation in the RFP process in the event the City determines that Offeror has an actual or apparent conflict of interest with the purposes of this RFP or has violated this Conflict of Interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Offeror, or any agent or representative of Offeror, to any officer or employee of the City, including the Mayor and Council and their staff, for the purpose of securing a Contract that may be awarded pursuant to this RFP, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of a Contract that may be awarded under this RFP, the City, may, by one (1) calendar day provide written notice to Offeror, terminate the right of Offeror to proceed under this RFP; provided that the existence of the facts upon which the City made such finding shall be an issue and may be litigated in an Arizona court of competent jurisdiction.

F.12. FOB DESTINATION FREIGHT PREPAID

Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered, and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.

F.13. LIVING WAGE REQUIREMENTS

In accordance with the Tucson Procurement Code, Chapter 28, Article XV, providing for a living wage requirement for all employees supplying specific service to the City of Tucson, this solicitation, and the resulting Contract, is subject to the referenced Article. By signing the Offer and Acceptance page, Bidder/Offeror agrees to comply with the requirements of the Article. Such requirements include, but are not limited to:

A wage of no less than \$10.86 per hour (with health benefits being provided to employees); or

A wage of no less than \$12.15 per hour (without health benefits being provided to employees); and If health benefits are offered, an eligible contractor shall pay no less than 50% of the eligible employee's health benefits premium.

In accordance with Sec. 28-157 (f) of the Tucson Procurement Code, if health benefits are offered to an eligible employee under an eligible Contract, proof of the above compliance shall be provided by the successful Bidder/Offeror upon notification by the City of its intent to award a Contract.

Notwithstanding the Severability clause, under Standard Terms and Conditions, if the provisions of this clause become unenforceable for any reason, the City reserves the right to terminate this Contract without penalty or liability. In the event the City negotiates an adjustment to the terms, conditions, or price acceptable to the parties, then this Contract shall continue until expiration.

Compliance with Wage Requirement: The City's Director of Business Services shall monitor compliance, including the investigation of claimed violations, and may promulgate administrative rules and regulations to implement and enforce this Article. In the event of any violation of the provisions set forth in this Article, the responsible Contractor and any applicable subcontractors shall be liable for the unpaid wages and shall pay the eligible employee any amounts underpaid. The City's Director of

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Business Services is additionally authorized to take any one or more of the following remedies in the event of a written determination of noncompliance:

- Liquidated damages paid to the City in the amount of \$50.00 for each incidence of non-compliance for each day of non-compliance and/or each day it continues;
- Suspension of further payments under the Contract until the violation has ceased;
- Suspend and/or terminate the Contract for cause; and/or
- Debar or suspend the Contractor or subcontractor from future City contracts pursuant to Tucson Procurement Code, Chapter 28, Article IX.

Protests or appeals of the Director's remedies for non-compliance shall be in accordance with Article IX.

Records for Wage Requirement: The Contractor and any applicable subcontractor shall make the records required available for inspection, copying, or transcription by authorized representatives of the City's Director of Business Services, and shall permit such representatives to interview employees during working hours on the job. If the Contractor and any applicable subcontractor fails to submit the required records or make them available, the Director may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to Article IX.

Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all eligible employees. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

All inquiries regarding the Living Wage program may be directed to the Contract Officer responsible for this solicitation.

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G. INSURANCE REQUIREMENTS

G.1. The Contractor agrees to:

- A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage in any policy.
- B. The Commercial General Liability, Commercial Automobile Liability and umbrella policies where applicable will include the City as an additional insured with respect to liability arising out of the performance of this contract. 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. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable.

G.2. Commercial General Liability

Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability:

Each Occurrence: \$1,000,000

General Aggregate: \$2,000,000

Products & Completed Operations Aggregate: \$2,000,000

Personal and Advertising Injury: \$1,000,000

Blanket Contractual Liability: \$1,000,000

G.3. Commercial Automobile Liability

Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.

Combined Single Limit: \$1,000,000

G.4. Worker's Compensation (Applicable to the State of Arizona)

Per Occurrence: Statutory

Employer's Liability: \$1,000,000

Disease Each Employee: \$1,000,000

Disease Policy Limit: \$1,000,000

G.5. Garage Liability & Garage Keepers Liability – In addition to I, II, III

Garage Liability Limit \$1,000,000

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Garage Keeper's Liability – Direct Primary Coverage

Each Auto Limit: \$500,000

Each Occurrence Limit: \$1,000,000

*Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

G.6. Claims Made Insurance Coverage

If any or part of the required insurance is written on a claims-made basis, any policy retroactive date must precede the date of the contract and the Contractor must maintain such coverage for a period not less than three (3) years following contract expiration, termination or cancellation.

G.7. Additional Insurance Requirements

All Policies, excluding Employment Practices Liability and Professional Liability (Errors & Omissions), shall include or be endorsed to include the following provisions:

- A. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor (Including Worker's Compensation).
- B. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
- C. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

G.8. Notice of Coverage Modifications

Any changes material to compliance with this contract in the insurance policies above shall require (10) days written notice from the contractor to the City of Tucson. Such notice shall be sent directly to the Procurement Division.

G.9. Acceptability of Insurers

Contractors' insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

G.10. Verification of Coverage

Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after

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completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Procurement Division.

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

G.11. Subcontractors

Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G.12. 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.

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H. STANDARD TERMS AND CONDITIONS

H.1. ADVERTISING

Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Business Services Director.

H.2. AFFIRMATIVE ACTION

Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.

H.3. AMERICANS WITH DISABILITIES ACT (ADA)

The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.

H.4. APPLICABLE LAW

This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.

H.5. ASSIGNMENT-DELEGATION

No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Business Services. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.

H.6. CHILD/SWEAT-FREE LABOR POLICY

The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.

H.7. CLEAN UP

The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat, and workmanlike condition.

H.8. COMMENCEMENT OF WORK

The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.

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H.9. CONFIDENTIALITY OF RECORDS

The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. 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 the Contract, unless otherwise agreed to in writing by the City.

H.10. CONTRACT AMENDMENTS

The Business Services Department has the sole authority to:

- A. Amend the contract or enter into supplemental verbal or written agreements;
- B. Grant time extensions or contract renewals;
- C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Business Services. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Business Services Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

H.11. CONTRACT

The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Business Services, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

H.12. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH

Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.

H.13. DUPLEXED/RECYCLED PAPER

In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.

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H.14. EQUAL PAY

The Contractor shall comply with the applicable provisions of the Equal Pay Act of 1963 (Pub.L. 88-38, 29 U.S.C. section 206(d)); Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352, 42 U.S.C. 2000e et.seq.; and, the Lily Ledbetter Fair Pay Act of 2009 (Pub.L. 111-2).

H.15. EXCLUSIVE POSSESSION

All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.

H.16. FEDERAL IMMIGRATION LAWS AND REGULATIONS

Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

H.17. FORCE MAJEURE

Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

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H.18. GRATUITIES

The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

H.19. HUMAN RELATIONS

Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.

H.20. INDEMNIFICATION

To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractors agrees to waive all rights of subrogation against the City of Tucson, its agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54. 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

H.21. INDEPENDENT CONTRACTOR

It is understood that each party shall 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 party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such

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expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

H.22. INSPECTION AND ACCEPTANCE

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.

H.23. INTERPRETATION-PAROL EVIDENCE

This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.

H.24. ISREAL BOYCOTT DIVESTMENT

Acceptance of the contract warrants that the vendor is in compliance with A.R.S. § 35-393 and does not participate in a boycott of Israel as that term is defined within A.R.S. § 35-393.

H.25. 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 as applicable to this Contract.

H.26. LIENS

All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.

H.27. NO REPLACEMENT OF DEFECTIVE TENDER

Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.

H.28. NON-EXCLUSIVE CONTRACT

Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.

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H.29. OVERCHARGES BY ANTITRUST VIOLATIONS

The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

H.30. PAYMENT

The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

H.31. PROTECTION OF GOVERNMENT PROPERTY

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Business Services. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

H.32. PROVISIONS REQUIRED BY LAW

Each and every provision of law and any clause required by law to be in the Contract shall 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 shall be amended to make such insertion or correction.

H.33. RECORDS

Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. Contractor shall maintain books, records, documents, and other evidence directly pertinent to the performance of the Work under this Contract in accordance with generally accepted accounting principles and practices consistently applied and other applicable local, state or federal regulations.

Contractor shall, at all times during the term of this Contract and for a period of three years after the completion of this Contract, maintain such records, together with such supporting or underlying documents and materials.

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Contractor shall ensure City has these rights with Contractor's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to City.

H.34. RIGHT TO AUDIT

The City and its authorized representatives shall have the right, upon reasonable written notice to Contractor, to cause an audit to be made of the Contractor's books and records which relate to its operations under this Contract. The audit shall be limited to the term of this Contract. The City shall have the right to examine and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Contract kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and subcontractors. Such records shall include, but not be limited to, accounting records, subcontractor records, payment vouchers and invoices.

The Contractor shall at any time requested by City, whether during or after completion of this Contract, and at Contractor's own expense make such records available for inspection and audit (including copies and extracts of records as required) by City. Such records shall be made available to City during normal business hours at the Contractor's office, place of business, an agreed to location, mailed or provided electronically.

If, as a result of such audit, the Contractor is liable to the City for the payment of any sum, Contractor shall promptly pay such sum to the City together with interest thereon at the rate of one percent (1%) per month from the date such sums should have been paid. Payment shall be made within 90 days from presentation of City's findings to Contractor.

If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, City may recoup the costs of the audit work from the Contractor. The City's rights under this provision shall survive the expiration or termination of the Contract

H.35. RIGHT TO ASSURANCE

Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.

H.36. RIGHT TO INSPECT

The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.

H.37. RIGHTS AND REMEDIES

No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict

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performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

H.38. SEVERABILITY

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.

H.39. SHIPMENT UNDER RESERVATION

No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.

H.40. SUBCONTRACTS

No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Business Services.. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

H.41. SUBSEQUENT EMPLOYMENT

The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Business Services is received by the parties to this Contract, unless the notice specifies a later time.

H.42. TERMINATION OF CONTRACT

This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

- In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

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- In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;
- In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;
- The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;
- In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;
- The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

H.43. TITLE AND RISK OF LOSS

The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

H.44. WARRANTIES

Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

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ATTACHMENT A
A - Exhibit B - OMNIA Partners Exhibits

PPA ATTACHMENT#



Requirements for National Cooperative Contract To Be Administered by OMNIA Partners

The following documents are used in evaluating and administering national cooperative contracts and are included for Supplier's review and response.

Exhibit A – Response for National Cooperative Contract

Exhibit B – Administration Agreement, Example

Exhibit C – Master Intergovernmental Cooperative Purchasing Agreement, Example

Exhibit D – Principal Procurement Agency Certificate, Example

Exhibit E – Contract Sales Reporting Template

Exhibit F – Federal Funds Certifications

Exhibit G – New Jersey Business Compliance

Exhibit H – Advertising Compliance Requirement

Exhibit A

Response for National Cooperative Contract

1.0 Scope of National Cooperative Contract

Capitalized terms not otherwise defined herein shall have the meanings given to them in the Master Agreement or in the Administration Agreement between Supplier and OMNIA Partners.

1.1 Requirement

The City of Tucson (hereinafter defined and referred to as “Principal Procurement Agency”), on behalf of itself and the National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector (“OMNIA Partners”), is requesting proposals for Heavy Equipment, Parts, Accessories, Supplies and Related Services. The intent of this Request for Proposal is any contract between Principal Procurement Agency and Supplier resulting from this Request for Proposal (“Master Agreement”) be made available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit (“Public Agencies”), through OMNIA Partners’ cooperative purchasing program. The Principal Procurement Agency has executed a Principal Procurement Agency Certificate with OMNIA Partners, an example of which is included as Exhibit D, and has agreed to pursue the Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners as a Participating Public Agency in OMNIA Partners’ cooperative purchasing program. Registration with OMNIA Partners as a Participating Public Agency is accomplished by Public Agencies entering into a Master Intergovernmental Cooperative Purchasing Agreement, an example of which is attached as Exhibit C, and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of the Master Intergovernmental Purchasing Cooperative Agreement or as otherwise agreed to. The terms and pricing established in the resulting Master Agreement between the Supplier and the Principal Procurement Agency will be the same as that available to Participating Public Agencies through OMNIA Partners.

All transactions, purchase orders, invoices, payments etc., will occur directly between the Supplier and each Participating Public Agency individually, and neither OMNIA Partners, any Principal Procurement Agency nor any Participating Public Agency, including their respective agents, directors, employees or representatives, shall be liable to Supplier for any acts, liabilities, damages, etc., incurred by any other Participating Public Agency. Supplier is responsible for knowing the tax laws in each state.

This Exhibit A defines the expectations for qualifying Suppliers based on OMNIA Partners’ requirements to market the resulting Master Agreement nationally to Public Agencies. Each section in this Exhibit A refers to the capabilities, requirements, obligations, and prohibitions of competing Suppliers on a national level in order to serve Participating Public Agencies through OMNIA Partners.

These requirements are incorporated into and are considered an integral part of this RFP. OMNIA Partners reserves the right to determine whether to make the Master Agreement awarded by the Principal Procurement Agency available to Participating Public Agencies, in its sole and absolute discretion, and any party submitting a response to this RFP acknowledges that any award by the Principal Procurement Agency does not obligate OMNIA Partners to make the Master Agreement available to Participating Procurement Agencies.

1.2 Marketing, Sales and Administrative Support

During the term of the Master Agreement OMNIA Partners intends to provide marketing, sales, partnership development and administrative support for Supplier pursuant to this section that directly promotes the Supplier's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis.

OMNIA Partners will assign the Supplier a Director of Partner Development who will serve as the main point of contact for the Supplier and will be responsible for managing the overall relationship between the Supplier and OMNIA Partners. The Director of Partner Development will work with the Supplier to develop a comprehensive strategy to promote the Master Agreement and will connect the Supplier with appropriate stakeholders within OMNIA Partners including, Sales, Marketing, Contracting, Training, and Operations & Support.

The OMNIA Partners marketing team will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through channels that may include:

- A. Marketing collateral (print, electronic, email, presentations)
- B. Website
- C. Trade shows/conferences/meetings
- D. Advertising
- E. Social Media

The OMNIA Partners sales teams will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through initiatives that may include:

- A. Individual sales calls
- B. Joint sales calls
- C. Communications/customer service
- D. Training sessions for Public Agency teams
- E. Training sessions for Supplier teams

The OMNIA Partners contracting teams will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through:

- A. Serving as the subject matter expert for questions regarding joint powers authority and state statutes and regulations for cooperative purchasing
- B. Training sessions for Public Agency teams
- C. Training sessions for Supplier teams
- D. Regular business reviews to monitor program success
- E. General contract administration

Suppliers are required to pay an Administrative Fee of 3% of the greater of the Contract Sales under the Master Agreement and Guaranteed Contract Sales under this Request for Proposal. Supplier will be required to execute the OMNIA Partners Administration Agreement (Exhibit B).

1.3 Estimated Volume

The dollar volume purchased under the Master Agreement is estimated to be approximately \$25 million annually. While no minimum volume is guaranteed to Supplier, the estimated annual volume is projected based on the current annual volumes among the Principal Procurement Agency, other Participating Public Agencies that are anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between Supplier and OMNIA Partners.

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will, at OMNIA Partners' option, be the basis of award on a national level through OMNIA Partners. If multiple Suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same Suppliers will be required to extend the Master Agreement to Participating Public Agencies through OMNIA Partners. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency (e.g. governing law) are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and OMNIA Partners shall agree without being in conflict with the Master Agreement as a condition of the Participating Agency's purchase and not a modification of the Master Agreement applicable to all Participating Agencies. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, governing law, etc.) ("Supplemental Agreement"). It shall be

the responsibility of the Supplier to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the Participating Agency. It shall further be the responsibility of the Supplier to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of the Master Agreement and adjust wage rates accordingly. In instances where supplemental terms and conditions create additional risk and cost for Supplier, Supplier and Participating Public Agency may negotiate additional pricing above and beyond the stated contract not-to-exceed pricing so long as the added price is commensurate with the additional cost incurred by the Supplier. Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and the Supplier (Contract Sales are reported to OMNIA Partners).

All signed Supplemental Agreements and purchase orders issued and accepted by the Supplier may survive expiration or termination of the Master Agreement. Participating Agencies' purchase orders may exceed the term of the Master Agreement if the purchase order is issued prior to the expiration of the Master Agreement. Supplier is responsible for reporting all sales and paying the applicable Administrative Fee for sales that use the Master Agreement as the basis for the purchase order, even though Master Agreement may have expired.

1.5 Objectives of Cooperative Program

This RFP is intended to achieve the following objectives regarding availability through OMNIA Partners' cooperative program:

- A. Provide a comprehensive competitively solicited and awarded national agreement offering the Products covered by this solicitation to Participating Public Agencies;
- B. Establish the Master Agreement as the Supplier's primary go to market strategy to Public Agencies nationwide;
- C. Achieve cost savings for Supplier and Public Agencies through a single solicitation process that will reduce the Supplier's need to respond to multiple solicitations and Public Agencies need to conduct their own solicitation process;
- D. Combine the aggregate purchasing volumes of Participating Public Agencies to achieve cost effective pricing.

2.0 REPRESENTATIONS AND COVENANTS

As a condition to Supplier entering into the Master Agreement, which would be available to all Public Agencies, Supplier must make certain representations, warranties and covenants to both the Principal Procurement Agency and OMNIA Partners designed to ensure the success of the Master Agreement for all Participating Public Agencies as well as the Supplier.

2.1 Corporate Commitment

Supplier commits that (1) the Master Agreement has received all necessary corporate authorizations and support of the Supplier's executive management, (2) the Master Agreement is Supplier's primary "go to market" strategy for Public Agencies, (3) the

Master Agreement will be promoted to all Public Agencies, including any existing customers, and Supplier will transition existing customers, upon their request, to the Master Agreement, and (4) that the Supplier has read and agrees to the terms and conditions of the Administration Agreement with OMNIA Partners and will execute such agreement concurrent with and as a condition of its execution of the Master Agreement with the Principal Procurement Agency. Supplier will identify an executive corporate sponsor and a separate national account manager within the RFP response that will be responsible for the overall management of the Master Agreement.

2.2 Pricing Commitment

Supplier commits the not-to-exceed pricing provided under the Master Agreement pricing is its lowest available (net to buyer) to Public Agencies nationwide and further commits that if a Participating Public Agency is eligible for lower pricing through a national, state, regional or local or cooperative contract, the Supplier will match such lower pricing to that Participating Public Agency under the Master Agreement.

2.3 Sales Commitment

Supplier commits to aggressively market the Master Agreement as its go to market strategy in this defined sector and that its sales force will be trained, engaged and committed to offering the Master Agreement to Public Agencies through OMNIA Partners nationwide. Supplier commits that all Master Agreement sales will be accurately and timely reported to OMNIA Partners in accordance with the OMNIA Partners Administration Agreement. Supplier also commits its sales force will be compensated, including sales incentives, for sales to Public Agencies under the Master Agreement in a consistent or better manner compared to sales to Public Agencies if the Supplier were not awarded the Master Agreement.

3.0 SUPPLIER RESPONSE

Supplier must supply the following information for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through OMNIA Partners.

3.1 Company

- A. Brief history and description of Supplier to include experience providing similar products and services.

For more than 90 years, Caterpillar Inc. has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2020 sales and revenues of \$42 billion, Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and provides financing and related services

through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy we need our dealers, and our customers to be successful, for us to continue to grow profitably. It's a symbiotic relationship where all benefit when all grow together. This success is evident in the fact that many of our dealers have been owned by the same family for multiple generations.

Caterpillar is the market leader and holds the highest North American share of the heavy equipment business. This leadership also extends to sales to governmental agencies. These figures are based on sales that have been publicly reported by our competition and does not consider market share adjustments for those not reporting.

One of the largest factors for Caterpillar's continued success is that our customers have realized that they get the best overall value when they purchase Caterpillar. When considering the total cost of ownership, it's important to include the following factors. For any specific product, the Cat dealer would be able to provide detailed information tailored to the local market.

- Operating costs (include fuel burn, a key trait for which Caterpillar is broadly considered most efficient)
- Maintenance costs
- Repair costs
- Safety design and performance
- Productivity
- Ease of operation
- Reliability
- Resale value

B. Total number and location of salespersons employed by Supplier.

Cat machines and engines are distributed principally through a worldwide network of dealers. In the United States there are 45 dealers, two in Canada and 114 located outside North America.

Caterpillar has a team of 45 sales reps that support our dealer network in achieving their sales goals. In addition, each dealer has a sales team that supports the end customers.

C. Number and location of support centers (if applicable) and location of corporate office.

Cat machines and engines are distributed principally through a worldwide network of dealers. There are 45 dealers in the United States, two in Canada and 114 located outside North America.

Caterpillar and Cat Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Cat dealers also will provide parts and service support. All Participating Dealers are financially healthy with no outstanding issues that would disrupt service within these territories. Cat dealers average more than 60 years of experience within their respective territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 59,000 total employees. Many dealers have salespersons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The Cat dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

D. Annual sales for the three previous fiscal years.

2018 - \$54.7B

2019 – \$53.8B

2020 – \$41.7B

a. Submit FEIN and Dunn & Bradstreet report.

- Caterpillar's Employee Identification Number is 37-0602744
- Please refer to vendor's response section, Dunn & Bradstreet

E. Describe any green or environmental initiatives or policies.

To view Caterpillar's achievements in sustainability, please view our most recent Sustainability Report at:

https://reports.caterpillar.com/sr/index.php?_ga=2.30262591.1428625582.1630336780-1389673808.1608044669



- F. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program. If there are any diversity programs, provide a list of diversity alliances and a copy of their certifications.

Two CAT dealers in North America are owned by women: Foley Equipment, with territory primarily in Kansas and Missouri; and Cashman Equipment based in Nevada. In addition to these two owners, there are 31 other women in our NA dealer network who hold the titles of President, Vice President or Director.

One of the more recognized initiatives within Caterpillar's Global Supply Network Division is the Caterpillar Inc. Proprietary Information Supplier Diversity Program which spurs economic growth by increasing business opportunities to minority-owned, women-owned, veteran and service-disabled veteran-owned, small, disadvantaged businesses and those certified in HUBZones, all while ensuring expectations are met with regards to quality, velocity, capacity, and cost. Currently more than 37% of our direct and indirect purchasing is conducted with suppliers in these categories.

Caterpillar is a proud member of the National Minority Supplier Development Council (NMSDC). WE also use the System for Award Management (SAM), SBA, and NMSDC databases to locate SDB, VOSB, SDVOSB and HUBZone suppliers.

Supplier Diversity is discussed with Global Supply Network Division leadership during the Monthly Operating Results Review meetings. This in turn forces accountability for diverse supplier inclusion by measuring drivers, such as the number of sourcing projects, which include Diverse Suppliers and the values of the projects in which they participate. The goal is to create greater transparency to determine which teams are creating inclusive environments and which are not.

G. Indicate if supplier holds any of the below certifications in any classified areas and include proof of such certification in the response:

a. Minority Women Business Enterprise

☐ Yes ☐ No

If yes, list certifying agency: _____

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

☐ Yes ☐ No

If yes, list certifying agency: _____

c. Historically Underutilized Business (HUB)

☐ Yes ☐ No

If yes, list certifying agency: _____

d. Historically Underutilized Business Zone Enterprise (HUBZone)

☐ Yes ☐ No

If yes, list certifying agency: _____

e. Other recognized diversity certificate holder

☐ Yes ☐ No

If yes, list certifying agency: _____

H. List any relationships with subcontractors or affiliates intended to be used when providing services and identify if subcontractors meet minority-owned standards. If any, list which certifications subcontractors hold and certifying agency.

Caterpillar is a proud member of the National Minority Supplier Development Council (NMSDC). WE also use the System for Award Management (SAM), SBA, and NMSDC databases to locate SDB, VOSB, SDVOSB and HUBZone suppliers.

I. Describe how supplier differentiates itself from its competitors.

BEST OVERALL VALUE / LOWEST LIFE CYCLE COST:

CAT products deliver the best value for the money. While we rarely have the lowest initial purchase price, we are happy to demonstrate to customers that our machines offer the lowest overall owning and operating costs when factors such as fuel efficiency, repair frequency, productivity, and resale value are factored in. We believe that government

agencies are tasked to be the best stewards of taxpayer funds and our products can prove that they are the best solution. OMNIA Partners members are in the best position to allow these discussions to take place in contrast to a local bid situation where the focus is often only on initial price.

CAT SAFETY SERVICES / SAFETY FEATURES:

In addition to the tangible, measurable aspects of the life cycle cost equation, we also bring our focus on safety to every product that we manufacture. Quantifying a human life or debilitating injury is impossible, but each machine has industry-leading features that strive to minimize the possibility for accidents.

In addition to built-in safety features, we also offer a suite of aftermarket products and services that are unique in the industry.

Caterpillar Safety Services offers culture, jobsite and leadership assessments; safety and leadership training workshops; and a comprehensive continuous improvement process through consultative services. Services are facilitated by Safety Services consultants and training products can be purchased for self-implementation. Details on products and services are available at www.cat.com/safety. These products and services are available at a 15% discount from the list price.

Technology Enabled Safety Solutions are tangible products designed to assist the implementation of a safety culture. We are pleased to offer these unique products at a 5% discount off list price.

PRODUCT ATTRIBUTES:

Each product we sell offers unique operating, safety, and cost-savings advantages that are exclusive to Caterpillar. It is outside the scope of this response to itemize these differentiators. However, we provide many details on our web page at www.cat.com.

- J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.

Regarding present and past litigation, Caterpillar, its subsidiaries and divisions strive to conduct business using a strict Code of Conduct. When litigation does occur, we take it seriously. Any current or past litigation will not keep Caterpillar from meeting its contract obligations. Caterpillar has never filed for bankruptcy nor had material reorganizations that will impact its ability to meet contract obligations.

K. Felony Conviction Notice: Indicate if the supplier

- a. is a publicly held corporation and this reporting requirement is not applicable;

N/A Caterpillar Inc. is a publicly held corporation

- b. is not owned or operated by anyone who has been convicted of a felony; or
c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.

L. Describe any debarment or suspension actions taken against supplier

3.2 Distribution, Logistics

- A. Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line. Describe the full line of products and services offered by supplier.

Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation include but are not limited to:

Articulated Trucks	Motor Graders
Asphalt Pavers	Off-Highway Trucks
Backhoe Loaders	Road Reclaimers
Cold Planers	Site Prep Tractors
Compactors (including landfill)	Skid Steer Loaders
Compact Track Loaders	Telehandlers
Multi-Terrain Loaders	Track Loaders
Dozers (including landfill)	Wheel Dozers
Excavators	Wheel Excavators
Forestry Equipment	Wheel Loaders
Generators	Wheel Tractor Scrapers (including landfill)

- B. Describe how supplier proposes to distribute the products/service nationwide. Include any states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.

Caterpillar products and services are distributed principally through a worldwide organization of dealers (dealer network), which includes 45 located in the United States, and two in Canada.

- C. Describe how Participating Agencies are ensured they will receive the Master Agreement pricing; include all distribution channels such as direct ordering, retail or in-store locations, through distributors, etc. Describe how Participating Agencies verify and audit pricing to ensure its compliance with the Master Agreement.

Caterpillar has a dedicated governmental team in charge of training, communicating, and creating support programs for all the dealers in North America. This team will ensure all dealers are aware of the master agreement and its corresponding pricing. Participating agencies can reach out to the team to verify the pricing based on our price pages.

- D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

All North American Cat Dealers and or their subsidiaries will be involved in the processing, handling or shipping the products / services to the end user.

- E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our principal manufacturing facilities include those used by the following segments in the following locations:

Segment	U.S. Facilities	Facilities Outside the U.S.
Construction Industries	Arkansas: North Little Rock Georgia: Athens, LaGrange Illinois: Aurora, Decatur, East Peoria Kansas: Wamego Minnesota: Brooklyn Park North Carolina: Clayton, Sanford Texas: Victoria, Waco	Brazil: Campo Largo, Piracicaba China: Suzhou, Wujiang, Xuzhou, Qingzhou France: Grenoble, Echirolles Hungary: Godollo India: Thiruvallar Indonesia: Jakarta Italy: Minerbio Japan: Akashi Mexico: Torreon Netherlands: Den Bosch Poland: Janow, Sosnowiec Thailand: Rayong United Kingdom: Desford, Stockton

Resource Industries	Illinois: Aurora, Decatur, East Peoria, Joliet South Carolina: Sumter Tennessee: Dyersburg Texas: Denison Wisconsin: South Milwaukee	China: Langfang, Wuxi France: Amas Germany: Dortmund, Lunen India: Hosur, Thiruvallur Indonesia: Batam Italy: Jesi Japan: Sagamihara Mexico: Acuna, Monterrey, Reynosa Northern Ireland: Belfast Russia: Tosno Thailand: Rayong United Kingdom: Peterlee
Energy & Transportation	Alabama: Albertville, Montgomery California: San Diego Colorado: Denver Georgia: Griffin, Alpharetta Illinois: Island Lake, LaGrange, Mossville, Mapleton, Pontiac Indiana: Lafayette, Muncie Oklahoma: Broken Arrow, Sulphur North Carolina: Winston-Salem Kentucky: Decoursey, Mayfield Texas: Channelview, DeSoto, Mabank, San Antonio, Schertz, Seguin, Sherman	Australia: Revesby, Redbank Brazil: Curitiba, Hortolandia, Piracicaba, Sete Lagoas China: Tianjin, Wuxi Czech Republic: Zatec, Zbrak Germany: Kiel, Mannheim, Rostock India: Hosur, Aurangabad Mexico: San Luis Potosi, Tijuana Republic of Singapore: Singapore Sweden: Ockero Islands Switzerland: Riazino United Kingdom: Lame, Monkstown, Peterborough, Sandiacre, South Queensferry, Springvale, Stafford, Wimborne

3.3 Marketing and Sales

- A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:
- Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days
 - Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days

SEE ALSO EXCEPTIONS DOCUMENT

Exception to section 3.4 Marketing and Sales, section A.

Vendor requests verbiage to read as follows:

- A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the go to market strategy for Public Agencies to your teams nationwide, to include, but not limited to:

- Training and education of your national sales force of your company, along with the dealer team within first 90 days

Initially, a National Press Release will be issued followed by a formal announcement of the award to Caterpillar's field force and Caterpillar's Dealer network. We anticipate this first communication to take place within the first 30 days.

Supplier commits to market the Master Agreement and that its sales force will be trained to offering the Master Agreement to Public Agencies through OMNIA nationwide. Supplier commits that all Master Agreement sales will be accurately and timely reported to OMNIA in accordance with the OMNIA Administration Agreement.

Along with these communications a training package will be developed and presented to Caterpillar's Dealer sales force. Due to the number of salesmen, multiple sessions may be required. The initial training package will have an expected delivery date of no later than 60 days after the announcement of the award. Along with the live training offering, a static training package will be added to Caterpillar's internal website for future reference.

Within this same timeframe Caterpillar will coordinate with OMNIA representatives regarding any additional communication and or training opportunities to promote the Master Agreement.

- B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:
- i. Creation and distribution of a co-branded press release to trade publications
 - ii. Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days
 - iii. Design, publication and distribution of co-branded marketing materials within first 90 days
 - iv. Commitment to attendance and participation with OMNIA Partners at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
 - v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.
 - vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
 - vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
 - viii. Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:

- OMNIA Partners standard logo;
- Copy of original Request for Proposal;
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to OMNIA Partners' website including the online registration page;
- A dedicated toll-free number and email address for OMNIA Partners

SEE ALSO EXCEPTIONS DOCUMENT

Exception to section **3.4 Marketing and Sales, section B.**

Vendor requests verbiage to read as follows:

- B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:
- i. Creation and distribution of a co-branded press release to trade publications.
 - ii. Announcement, contract details and contact information published on the company website.
 - iii. Design, publication and distribution of co-branded marketing materials.
 - iv. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by National IPA for partner suppliers. Booth space will be purchased and staffed by your company. In addition, you commit to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum.
 - v. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
 - vi. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, etc.)

As noted previously, a National Press Release will be made within the first 30 days of the award. It will be up to the individual Cat Dealer to determine participation in supporting the Master Agreement and ultimately up to the end user to choose the best method of purchase to meet their individual needs.

Caterpillar will commit resources to develop both hard and electronic marketing pieces for Cat Dealers to support this effort along with the inclusion of OMNIA's branding on any future cooperative contract advertising pieces.

As a member of the Vendor Council, Caterpillar is in full support of all NIGP efforts regarding cooperative purchasing and is planning to purchase and staff a booth space for the 2021 NIGP Annual Forum.

Caterpillar will support advertising initiatives that are in the form of electronic media pieces that will be distributed through the following online trade publications and networks:

- C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

SEE ALSO EXCEPTIONS DOCUMENT

Exception to section **3.4 Marketing and Sales, section C.**

Vendor requests verbiage to read as follows:

- C. Include a list of current cooperative contracts (regional and national) your company holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

Caterpillar presently holds four cooperative contracts. Those contracts are Sourcewell Heavy Equipment Contract # 032119; Sourcewell CAT Diesel & Natural Gas Generator Sets Contract # 120617; Sourcewell Rental Contract # 062320; and NASPO Heavy Equipment Contract # OK-SW-192.

For purposes of this proposal, all heavy equipment cooperative contracts provide the same product offering and discount structure.

- D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.

See attachment "OMNIA Trademark License Addendum", provided in the ATTACHMENTS section of this RFP.

E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:

- i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
- ii. Best government pricing
- iii. No cost to participate
- iv. Non-exclusive

Should Caterpillar be awarded the contract, Caterpillar ensures that training and marketing materials associated to the Master Agreement will clearly communicate the advantages as noted in **Section 3.4 Marketing and Sales, subsection A and B.**

F. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:

- i. Key features of Master Agreement
- ii. Working knowledge of the solicitation process
- iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners
- iv. Knowledge of benefits of the use of cooperative contracts

Should Caterpillar be awarded the contract, Caterpillar ensures that training and marketing materials associated with the Master Agreement will be completed as noted in **Section 3.4 Marketing and Sales, subsection A and B.**

G. Provide the name, title, email and phone number for the person(s), who will be responsible for:

- i. Executive Support
- ii. Marketing
- iii. Sales
- iv. Sales Support
- v. Financial Reporting
- vi. Accounts Payable
- vii. Contracts

Nationally, the contract will be managed by:

Tirena Pavelka
 Governmental Account Manager
 100 NE Adams St.
 Peoria, IL 61629
 Office: 309-675-1589
pavelka_tirena_l@cat.com

- H. Describe in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

Caterpillar's North American field force is divided into eight districts including Canada. Each district has marketing representatives that are responsible for working with assigned dealers within their territory. The eight districts are divided into a Western Region and an Eastern Region. Both a Western Region Manager and an Eastern Region Manager report to Patrick Kearns who serves as the Americas Industry Region Manager.

- I. Explain in detail how the sales teams will work with the OMNIA Partners team to implement, grow and service the national program.

Through our governmental specialists and the contract manager, Caterpillar will develop training materials along with marketing initiatives specific to the cooperative purchasing model to ensure that dealers are equipped with the necessary tools to present the message to the customer with confidence

- I. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.

The contract manager will be the single point of contact for any issues related to supporting, maintaining, and promoting the contract. It will be up to each individual dealer to identify those customers that would benefit from the program's use and will promote it accordingly

- J. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

Caterpillar's governmental sales in 2020 were \$999M from 5,200 units.

Customers who purchase Caterpillar equipment are ultimately the customers of the Cat Dealers who serve them. As such Caterpillar does not require dealers to provide the contact information for their customers unless extenuating circumstances mandate it. Caterpillar also regards all customer transaction information as confidential and reserves the right to withhold such information until such time a legal requirement would warrant it.

- K. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

Caterpillar has a number of systems that manage the intake of orders from dealers and then to record and manage dealer sales to public agencies. Those systems vary depending on which products and services are sold.

- L. Provide the Contract Sales (as defined in Section 10 of the OMNIA Partners Administration Agreement) that Supplier will guarantee each year under the Master Agreement for the initial three years of the Master Agreement (“Guaranteed Contract Sales”).

\$_____.00 in year one

\$_____.00 in year two

\$_____.00 in year three

To the extent Supplier guarantees minimum Contract Sales, the Administrative Fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

Caterpillar does not guarantee contract sales volume, however, raising the admin fee to 2% of transaction price (1.4% of list price), if a non-competitive award is granted, is equivalent to a 25% sales volume increase vs our goal for 2021. Caterpillar also guarantees to work directly with OMNIA’s team on a regular basis to monitor contract sales volumes and take action as needed to meet jointly set goals. Caterpillar expects to set goals on an annual basis that will grow this contract.

NOTE: Caterpillar recognizes that the City of Tucson and other participating agencies may have needs outside of the range of products offered by Caterpillar and its dealer network. To that end, we recognize that a non-competitive “multi-award” is acceptable to grow the volumes of this contract.

- M. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

- i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).
- ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.
- iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).
- iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail Supplier’s strategies under these options when responding to a solicitation.

Exhibit B
Administration Agreement, Example

ADMINISTRATION AGREEMENT

THIS ADMINISTRATION AGREEMENT (this “**Agreement**”) is made this ____ day of ____ 20__, between National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector (“**OMNIA Partners**”), and ____ (“**Supplier**”).

RECITALS

WHEREAS, the ____ (the “**Principal Procurement Agency**”) has entered into a Master Agreement effective ____, Agreement No ____, by and between the Principal Procurement Agency and Supplier, (as may be amended from time to time in accordance with the terms thereof, the “**Master Agreement**”), as attached hereto as Exhibit A and incorporated herein by reference as though fully set forth herein, for the purchase of ____ (the “**Product**”);

WHEREAS, said Master Agreement provides that any or all public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit (collectively, “**Public Agencies**”), that register (either via registration on the OMNIA Partners website or execution of a Master Intergovernmental Cooperative Purchasing Agreement, attached hereto as Exhibit B) (each, hereinafter referred to as a “**Participating Public Agency**”) may purchase Product at prices stated in the Master Agreement;

WHEREAS, Participating Public Agencies may access the Master Agreement which is offered through OMNIA Partners to Public Agencies;

WHEREAS, OMNIA Partners serves as the cooperative contract administrator of the Master Agreement on behalf of Principal Procurement Agency;

WHEREAS, Principal Procurement Agency desires OMNIA Partners to proceed with administration of the Master Agreement; and

WHEREAS, OMNIA Partners and Supplier desire to enter into this Agreement to make available the Master Agreement to Participating Public Agencies and to set forth certain terms and conditions governing the relationship between OMNIA Partners and Supplier.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, OMNIA Partners and Supplier hereby agree as follows:

DEFINITIONS

1. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings given to them in the Master Agreement.

TERMS AND CONDITIONS

2. The Master Agreement and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement. Supplier acknowledges and agrees that the covenants and agreements of Supplier set forth in the solicitation and Supplier's response thereto resulting in the Master Agreement are incorporated herein and are an integral part hereof.

3. OMNIA Partners shall be afforded all of the rights, privileges and indemnifications afforded to Principal Procurement Agency by or from Supplier under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to OMNIA Partners, its agents, employees, directors, and representatives under this Agreement including, but not limited to, Supplier's obligation to obtain appropriate insurance.

4. OMNIA Partners shall perform all of its duties, responsibilities and obligations as the cooperative contract administrator of the Master Agreement on behalf of Principal Procurement Agency as set forth herein, and Supplier hereby acknowledges and agrees that all duties, responsibilities and obligations will be undertaken by OMNIA Partners solely in its capacity as the cooperative contract administrator under the Master Agreement.

5. With respect to any purchases by Principal Procurement Agency or any Participating Public Agency pursuant to the Master Agreement, OMNIA Partners shall not be: (i) construed as a dealer, re-marketer, representative, partner or agent of any type of the Supplier, Principal Procurement Agency or any Participating Public Agency; (ii) obligated, liable or responsible for any order for Product made by Principal Procurement Agency or any Participating Public Agency or any employee thereof under the Master Agreement or for any payment required to be made with respect to such order for Product; and (iii) obligated, liable or responsible for any failure by Principal Procurement Agency or any Participating Public Agency to comply with procedures or requirements of applicable law or the Master Agreement or to obtain the due authorization and approval necessary to purchase under the Master Agreement. OMNIA Partners makes no representation or guaranty with respect to any minimum purchases by Principal Procurement Agency or any Participating Public Agency or any employee thereof under this Agreement or the Master Agreement.

6. OMNIA Partners shall not be responsible for Supplier's performance under the Master Agreement, and Supplier shall hold OMNIA Partners harmless from any liability that may arise from the acts or omissions of Supplier in connection with the Master Agreement.

7. Supplier acknowledges that, in connection with its access to OMNIA Partners confidential information and/or supply of data to OMNIA Partners, it has complied with and shall continue to comply with all laws, regulations and standards that may apply to Supplier, including, without limitation: (a) United States federal and state information security and privacy statutes, regulations and/or best practices, including, without limitation, the Gramm-Leach-Bliley Act, the Massachusetts Data Security Regulations (201 C.M.R. 17.00 et. seq.), the Nevada encryption statute (N.R.S. § 603A), the California data security law (Cal. Civil Code § 1798.80 et. seq.) and California Consumer Privacy Act (Cal. Civil Code § 1798.100 et. seq.); and (b) applicable industry and regulatory standards and best practices (collectively, "**Data Regulations**").

With regard to Personal Information that Supplier collects, receives, or otherwise processes under the Agreement or otherwise in connection with performance of the Agreement, Supplier agrees that it will not: (i) sell, rent, release, disclose, disseminate, make available, transfer, or otherwise

communicate orally, in writing, or by electronic or other means, such Personal Information to another business or third party for monetary or other valuable consideration; or (ii) retain, use, or disclose such Personal Information outside of the direct business relationship between Supplier and OMNIA Partners or for any purpose other than for the specific purpose of performance of the Agreement, including retaining, using, or disclosing such Personal Information for a commercial purpose other than for performance of the Agreement. By entering into the Agreement, Supplier certifies that it understands the specific restrictions contained in this Section 7 and will comply with them. For purposes hereof, “**Personal Information**” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household, and includes the specific elements of “personal information” as defined under Data Regulations, as defined herein. Supplier will reasonably assist OMNIA Partners in timely responding to any third party “request to know” or “request to delete” (as defined pursuant to Data Regulations) and will promptly provide OMNIA Partners with information reasonably necessary for OMNIA Partners to respond to such requests. Where Supplier collects Personal Information directly from Public Agencies or others on OMNIA Partners’ behalf, Supplier will maintain records and the means necessary to enable OMNIA Partners to respond to such requests to know and requests to delete.

8. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OMNIA PARTNERS EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES REGARDING OMNIA PARTNERS’ PERFORMANCE AS A CONTRACT ADMINISTRATOR OF THE MASTER AGREEMENT. OMNIA PARTNERS SHALL NOT BE LIABLE IN ANY WAY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR RELIANCE DAMAGES, EVEN IF OMNIA PARTNERS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

TERM OF AGREEMENT; TERMINATION

9. This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of Sections 3 – 8 and 11 – 22, hereof and the indemnifications afforded by the Supplier to OMNIA Partners in the Master Agreement, to the extent such provisions survive any expiration or termination of the Master Agreement, shall survive the expiration or termination of this Agreement.

NATIONAL PROMOTION

10. OMNIA Partners and Supplier shall publicize and promote the availability of the Master Agreement’s products and services to Public Agencies and such agencies’ employees. Supplier shall require each Public Agency to register its participation in the OMNIA Partners program by either registering on the OMNIA Partners website (www.omniapartners.com/publicsector) or executing a Master Intergovernmental Cooperative Purchasing Agreement prior to processing the Participating Public Agency’s first sales order. Upon request, Supplier shall make available to interested Public Agencies a copy of the Master Agreement and such price lists or quotes as may be necessary for such Public Agencies to evaluate potential purchases.

11. Supplier shall provide such marketing and administrative support as set forth in the solicitation resulting in the Master Agreement, including assisting in development of marketing materials as reasonably requested by Principal Procurement Agency and OMNIA Partners. Supplier shall be responsible for obtaining permission or license of use and payment of any license fees for all content and images Supplier provides to OMNIA Partners or posts on the OMNIA Partners website.

Supplier shall indemnify, defend and hold harmless OMNIA Partners for use of all such content and images including copyright infringement claims. Supplier and OMNIA Partners each hereby grant to the other party a limited, revocable, non-transferable, non-sublicensable right to use such party's logo (each, the "**Logo**") solely for use in marketing the Master Agreement. Each party shall provide the other party with the standard terms of use of such party's Logo, and such party shall comply with such terms in all material respects. Both parties shall obtain approval from the other party prior to use of such party's Logo. Notwithstanding the foregoing, the parties understand and agree that except as provided herein neither party shall have any right, title or interest in the other party's Logo. Upon termination of this Agreement, each party shall immediately cease use of the other party's Logo.

ADMINISTRATIVE FEE, REPORTING & PAYMENT

12. An "Administrative Fee" shall be defined and due to OMNIA Partners from Supplier in the amount of percent (%) ("**Administrative Fee Percentage**") multiplied by the total purchase amount paid to Supplier, less refunds, credits on returns, rebates and discounts, for the sale of products and/or services to Principal Procurement Agency and Participating Public Agencies pursuant to the Master Agreement (as amended from time to time and including any renewal thereof) ("**Contract Sales**"). From time to time the parties may mutually agree in writing to a lower Administrative Fee Percentage for a specifically identified Participating Public Agency's Contract Sales.

13. Supplier shall provide OMNIA Partners with an electronic accounting report monthly, in the format prescribed by OMNIA Partners, summarizing all Contract Sales for each calendar month. The Contract Sales reporting format is provided as Exhibit C ("**Contract Sales Report**"), attached hereto and incorporated herein by reference. Contract Sales Reports for each calendar month shall be provided by Supplier to OMNIA Partners by the 10th day of the following month. Failure to provide a Contract Sales Report within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at OMNIA Partners' sole discretion.

14. Administrative Fee payments are to be paid by Supplier to OMNIA Partners at the frequency and on the due date stated in Section 13, above, for Supplier's submission of corresponding Contract Sales Reports. Administrative Fee payments are to be made via Automated Clearing House (ACH) to the OMNIA Partners designated financial institution identified in Exhibit D. Failure to provide a payment of the Administrative Fee within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at OMNIA Partners' sole discretion. All Administrative Fees not paid when due shall bear interest at a rate equal to the lesser of one and one-half percent (1 1/2%) per month or the maximum rate permitted by law until paid in full.

15. Supplier shall maintain an accounting of all purchases made by Participating Public Agencies under the Master Agreement. OMNIA Partners, or its designee, in OMNIA Partners' sole discretion, reserves the right to compare Participating Public Agency records with Contract Sales Reports submitted by Supplier for a period of four (4) years from the date OMNIA Partners receives such report. In addition, OMNIA Partners may engage a third party to conduct an independent audit of Supplier's monthly reports. In the event of such an audit, Supplier shall provide all materials reasonably requested relating to such audit by OMNIA Partners at the location designated by OMNIA Partners. In the event an underreporting of Contract Sales and a resulting underpayment of

Administrative Fees is revealed, OMNIA Partners will notify the Supplier in writing. Supplier will have thirty (30) days from the date of such notice to resolve the discrepancy to OMNIA Partners' reasonable satisfaction, including payment of any Administrative Fees due and owing, together with interest thereon in accordance with Section 13, and reimbursement of OMNIA Partners' costs and expenses related to such audit.

GENERAL PROVISIONS

16. This Agreement, the Master Agreement and the exhibits referenced herein supersede any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereto and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained or incorporated herein shall be valid or binding. In the event of any conflict between the provisions of this Agreement and the Master Agreement, as between OMNIA Partners and Supplier, the provisions of this Agreement shall prevail.

17. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement or to recover any Administrative Fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which it may be entitled.

18. This Agreement and OMNIA Partners' rights and obligations hereunder may be assigned at OMNIA Partners' sole discretion to an affiliate of OMNIA Partners, any purchaser of any or all or substantially all of the assets of OMNIA Partners, or the successor entity as a result of a merger, reorganization, consolidation, conversion or change of control, whether by operation of law or otherwise. Supplier may not assign its obligations hereunder without the prior written consent of OMNIA Partners.

19. All written communications given hereunder shall be delivered by first-class mail, postage prepaid, or overnight delivery on receipt to the addresses as set forth below.

A. OMNIA Partners:

OMNIA Partners
Attn: President
840 Crescent Centre Drive
Suite 600
Franklin, TN 37067

B. Supplier:

20. If any provision of this Agreement shall be deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever, and this Agreement will be construed by limiting or invalidating such provision to the minimum extent necessary to make such provision valid, legal and enforceable.

21. This Agreement may not be amended, changed, modified, or altered without the prior written consent of the parties hereto, and no provision of this Agreement may be discharged or waived, except by a writing signed by the parties. A waiver of any particular provision will not be deemed a waiver of any other provision, nor will a waiver given on one occasion be deemed to apply to any other occasion.

22. This Agreement shall inure to the benefit of and shall be binding upon OMNIA Partners, the Supplier and any respective successor and assign thereto; subject, however, to the limitations contained herein.

23. This Agreement will be construed under and governed by the laws of the State of Delaware, excluding its conflicts of law provisions and any action arising out of or related to this Agreement shall be commenced solely and exclusively in the state or federal courts in Williamson County Tennessee.

24. This Agreement may be executed in counterparts, each of which is an original but all of which, together, shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile, or by .pdf or similar electronic transmission, will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile, or by .pdf or similar electronic transmission, will be deemed to be their original signatures for any purpose whatsoever.

25. Signature acceptance is contingent on exceptions requested. SEE EXCEPTIONS DOCUMENT ATTACHMENT.

[CATERPILLAR INC]

NATIONAL
INTERGOVERNMENTAL
PURCHASING ALLIANCE
COMPANY, A DELAWARE
CORPORATION D/B/A OMNIA
PARTNERS, PUBLIC SECTOR

DocuSigned by:

Patrick Kearns

08A57926721B4E0...

Signature

Patrick Kearns

Name

North America Industry Manager

Title

September 10, 2021

Date 9/17/2021

Signature

Sarah Vavra

Name

Sr. Vice President, Public Sector Contracting

Title

Date

Exhibit C
Master Intergovernmental Cooperative Purchasing Agreement, Example

MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This Master Intergovernmental Cooperative Purchasing Agreement (this “**Agreement**”) is entered into by and between those certain government agencies that execute a Principal Procurement Agency Certificate (“**Principal Procurement Agencies**”) with National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector and/or Communities Program Management, LLC, a California limited liability company d/b/a U.S. Communities (collectively, “**OMNIA Partners**”), in its capacity as the cooperative administrator, to be appended and made a part hereof and such other public agencies (“**Participating Public Agencies**”) who register to participate in the cooperative purchasing programs administered by OMNIA Partners and its affiliates and subsidiaries (collectively, the “**OMNIA Partners Parties**”) by either registering on the OMNIA Partners website (www.omniapartners.com/publicsector or any successor website), or by executing a copy of this Agreement.

RECITALS

WHEREAS, after a competitive solicitation and selection process by Principal Procurement Agencies, in compliance with their own policies, procedures, rules and regulations, a number of suppliers have entered into “**Master Agreements**” (herein so called) to provide a variety of goods, products and services (“**Products**”) to the applicable Principal Procurement Agency and the Participating Public Agencies;

WHEREAS, Master Agreements are made available by Principal Procurement Agencies through the OMNIA Partners Parties and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Principal Procurement Agency, subject to any applicable federal and/or local purchasing ordinances and the laws of the State of purchase; and

WHEREAS, in addition to Master Agreements, the OMNIA Partners Parties may from time to time offer Participating Public Agencies the opportunity to acquire Products through other group purchasing agreements.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and of the mutual benefits to result, the parties hereby agree as follows:

1. Each party will facilitate the cooperative procurement of Products.
2. The Participating Public Agencies shall procure Products in accordance with and subject to the relevant federal, state and local statutes, ordinances, rules and regulations that govern Participating Public Agency’s procurement practices. The Participating Public Agencies hereby acknowledge and agree that it is the intent of the parties that all provisions of this Agreement and that Principal Procurement Agencies’ participation in the program described herein comply with all applicable laws, including but not limited to the requirements of 42 C.F.R. § 1001.952(j), as may be amended from time to time. The Participating Public Agencies further acknowledge and agree that they are solely responsible for their compliance with all applicable “safe harbor” regulations, including but not limited to any and all obligations to fully and accurately report discounts and incentives.

3. The Participating Public Agency represents and warrants that the Participating Public Agency is not a hospital or other healthcare provider and is not purchasing Products on behalf of a hospital or healthcare provider; provided that the foregoing shall not prohibit Participating Public Agency from furnishing health care services so long as the furnishing of healthcare services is not in furtherance of a primary purpose of the Participating Public Agency.

4. The cooperative use of Master Agreements shall be in accordance with the terms and conditions of the Master Agreements, except as modification of those terms and conditions is otherwise required by applicable federal, state or local law, policies or procedures.

5. The Principal Procurement Agencies will make available, upon reasonable request, Master Agreement information which may assist in improving the procurement of Products by the Participating Public Agencies.

6. The Participating Public Agency agrees the OMNIA Partners Parties may provide access to group purchasing organization (“**GPO**”) agreements directly or indirectly by enrolling the Participating Public Agency in another GPO’s purchasing program, provided that the purchase of Products through the OMNIA Partners Parties or any other GPO shall be at the Participating Public Agency’s sole discretion.

7. The Participating Public Agencies (each a “**Procuring Party**”) that procure Products through any Master Agreement or GPO Product supply agreement (each a “**GPO Contract**”) will make timely payments to the distributor, manufacturer or other vendor (collectively, “**Supplier**”) for Products received in accordance with the terms and conditions of the Master Agreement or GPO Contract, as applicable. Payment for Products and inspections and acceptance of Products ordered by the Procuring Party shall be the exclusive obligation of such Procuring Party. Disputes between Procuring Party and any Supplier shall be resolved in accordance with the law and venue rules of the State of purchase unless otherwise agreed to by the Procuring Party and Supplier.

8. The Procuring Party shall not use this Agreement as a method for obtaining additional concessions or reduced prices for purchase of similar products or services outside of the Master Agreement. Master Agreements may be structured with not-to-exceed pricing, in which cases the Supplier may offer the Procuring Party and the Procuring Party may accept lower pricing or additional concessions for purchase of Products through a Master Agreement.

9. The Procuring Party shall be responsible for the ordering of Products under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a Procuring Party, and, to the extent permitted by applicable law, the Procuring Party shall hold non-procuring party harmless from any liability that may arise from the acts or omissions of the Procuring Party.

10. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE OMNIA PARTNERS PARTIES EXPRESSLY DISCLAIM ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES REGARDING ANY PRODUCT, MASTER AGREEMENT AND GPO CONTRACT. THE OMNIA PARTNERS PARTIES SHALL NOT BE LIABLE IN ANY WAY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR RELIANCE DAMAGES, EVEN IF THE OMNIA PARTNERS PARTIES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, THE PROCURING PARTY ACKNOWLEDGES AND AGREES THAT THE OMNIA PARTNERS PARTIES SHALL HAVE NO LIABILITY FOR ANY ACT OR OMISSION BY A SUPPLIER OR

OTHER PARTY UNDER A MASTER AGREEMENT OR GPO CONTRACT.

11. This Agreement shall remain in effect until termination by either party giving thirty (30) days’ written notice to the other party. The provisions of Paragraphs 6 - 10 hereof shall survive any such termination.

12. This Agreement shall take effect upon (i) execution of the Principal Procurement Agency Certificate, or (ii) registration on the OMNIA Partners website or the execution of this Agreement by a Participating Public Agency, as applicable.

<u>Participating Public Agency:</u>	<u>OMNIA Partners, as the cooperative administrator on behalf of Principal Procurement Agencies:</u> NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY COMMUNITIES PROGRAM MANAGEMENT, LLC
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_____ Authorized Signature	_____ Signature
_____ Name	_____ Sarah E. Vavra
_____ Title and Agency Name	_____ Name
_____ Date	_____ Sr. Vice President, Public Sector Contracting
	_____ Title
	_____ Date

Exhibit D
Principal Procurement Agency Certificate, Example

PRINCIPAL PROCUREMENT AGENCY CERTIFICATE

In its capacity as a Principal Procurement Agency (as defined below) for National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector (“**OMNIA Partners**”), [NAME OF PPA] agrees to pursue Master Agreements for Products as specified in the attached Exhibits to this Principal Procurement Agency Certificate.

I hereby acknowledge, in my capacity as _____ of and on behalf of [NAME OF PPA] (“**Principal Procurement Agency**”), that I have read and hereby agree to the general terms and conditions set forth in the attached Master Intergovernmental Cooperative Purchasing Agreement regulating the use of the Master Agreements and purchase of Products that from time to time are made available by Principal Procurement Agencies to Participating Public Agencies nationwide through OMNIA Partners.

I understand that the purchase of one or more Products under the provisions of the Master Intergovernmental Cooperative Purchasing Agreement is at the sole and complete discretion of the Participating Public Agency.

Authorized Signature, [PRINCIPAL PROCUREMENT AGENCY]

Signature

Name

Title

Date

[illegible]

Exhibit F Federal Funds Certifications

FEDERAL CERTIFICATIONS

ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

DEFINITIONS

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

Contractor means an entity that receives a contract as defined in Contract.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302–6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
 - (1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - (2) An agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (iv) A loan guarantee; or
 - (v) Insurance.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or
- (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Non–Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations means, when used in connection with a non–Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non–Federal entity during the same or a future period.

Pass-through entity means a non–Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non–Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold means the dollar amount below which a non–Federal entity may purchase property or services using small purchase methods. Non–Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non–Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

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(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES pk Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (l) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES pk Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES pk Initials of Authorized Representative of offeror

Does offeror agree? YES Initials of Authorized Representative of offeror

Offeror's Name: Caterpillar Inc

Address, City, State, and Zip Code: 100 NE Adams St, Peoria IL 61629

Phone Number: 309 675 5181 Fax Number:

Printed Name and Title of Authorized Representative: Patrick Kearns, North America Industry Manager

Email Address: Kearns_Patrick@cat.com

DocuSigned by:
Signature of Authorized Representative Patrick Kearns Date: September 10, 2021
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FEMA SPECIAL CONDITIONS

Awarded Supplier(s) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA Special Conditions required by the Federal Emergency Management Agency (FEMA).

“Contract” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as the “Master Agreement”.

“Contractor” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as “Supplier” or “Awarded Supplier”.

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a “financial interest” to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an “apparent” conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency (“NFE”) must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE’s may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE’s written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended, as described in and subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension), must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws
- b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7
- c. Applicable prevailing wage laws, regulations, and executive orders

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Affirmative Steps

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Prevailing Wage Requirements

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses**1. REMEDIES**

- a. Standard. Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II(A).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

2. TERMINATION FOR CAUSE AND CONVENIENCE

- a. Standard. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. EQUAL EMPLOYMENT OPPORTUNITY

When applicable:

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- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).
- b. Key Definitions.
 - i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
 - ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. Required Language. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. DAVIS-BACON ACT

- a. Standard. All prime construction contracts in excess of \$2,000 awarded by non- Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b. Applicability. The Davis-Bacon Act applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program.
- c. Requirements. If applicable, the non-federal entity must do the following:
 - i. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti- Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- iii. Include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

5. COPELAND ANTI-KICKBACK ACT

- a. Standard. Recipient and subrecipient contracts must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).
- b. Applicability. This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. It DOES NOT apply to the FEMA Public Assistance Program.
- c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all

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suspected or reported violations to FEMA. Additionally, in accordance with the regulation, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland "Anti-Kickback" Act.

- a. Contractor. The contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12."

6. CONTRACT WORK HOURS AND SAFETY STANDARDSACT

- a. Standard. Where applicable (see 40 U.S.C. §§ 3701-3708), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- b. Applicability. This requirement applies to all FEMA contracts awarded by the non- federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- c. Suggested Language. The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in suchworkweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of

\$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The Federal agency or loan/grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of thissection.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of thissection.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT ORAGREEMENT

- a. Standard. If the FEMA award meets the definition of “funding agreement” under 37C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non- Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).
- b. Applicability. This requirement applies to “funding agreements,” but it DOES NOT apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case

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Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”

- c. Funding Agreements Definition. The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a. Standard. If applicable, contracts must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).
- b. Applicability. This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.
- c. Suggested Language. The following provides a sample contract clause.

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency

will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. DEBARMENT AND SUSPENSION

- a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- c. Requirements.
 - i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.
 - ii. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any non-procurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipients.
 - iii. Specifically, a covered transaction includes the following contracts for goods or services:
 1. The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 2. The contract requires the approval of FEMA, regardless of amount.
 3. The contract is for federally-required audit services.

4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. Suggested Language. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the Participating Public Agency. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Participating Public Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

- a. Standard. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Federal awarding agency.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.
- c. Suggested Language.

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Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

- d. Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Caterpillar Inc, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the

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Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

DocuSigned by:

Patrick Kearns

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Signature of Contractor's Authorized Official

Patrick Kearns, North America Industry Manager

Name and Title of Contractor's Authorized Official

September 10, 2021

Date

11. PROCUREMENT OF RECOVERED MATERIALS

- a. Standard. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. §200.322.
- b. Applicability. This requirement applies to all contracts awarded by a non- federal entity under FEMA grant and cooperative agreement programs.
- c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. Suggested Language.
 - i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - 2. Meeting contract performance requirements; or
 - 3. At a reasonable price.
 - ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

12. ACCESS TO RECORDS

- a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.

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Access to Records. The following access to records requirements apply to this contract:

- i. The Contractor agrees to provide Participating Public Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the Participating Public Agency and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

13. CHANGES

- a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

14. DHS SEAL, LOGO, AND FLAGS

- a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).
- b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- c. "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

15. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

- a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.
- b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- c. "This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

16. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- c. "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

17. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- c. "The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract."

Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.

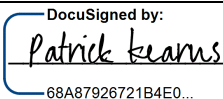
Offeror's Name: Caterpillar Inc

Address, City, State, and Zip Code: 100 NE Adams St, Peoria IL 61629

Phone Number: 309 675 5181 Fax Number: _____

Printed Name and Title of Authorized Representative:
Patrick Kearns, North America Industry Manager

Email Address: Kearns Patrick@cat.com

Signature of Authorized Representative  _____
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Date: September 10, 2021

Exhibit G New Jersey Business Compliance

NEW JERSEY BUSINESS COMPLIANCE

Suppliers intending to do business in the State of New Jersey must comply with policies and procedures required under New Jersey statutes. All offerors submitting proposals must complete the following forms specific to the State of New Jersey. Completed forms should be submitted with the offeror's response to the RFP. Failure to complete the New Jersey packet will impact OMNIA Partners' ability to promote the Master Agreement in the State of New Jersey.

DOC #1	Ownership Disclosure Form
DOC #2	Non-Collusion Affidavit
DOC #3	Affirmative Action Affidavit
DOC #4	Political Contribution Disclosure Form
DOC #5	Stockholder Disclosure Certification
DOC #6	Certification of Non-Involvement in Prohibited Activities in Iran
DOC #7	New Jersey Business Registration CertificateNew Jersey

suppliers are required to comply with the following New Jersey statutes when applicable:

- all anti-discrimination laws, including those contained in N.J.S.A. 10:2-1 through N.J.S.A. 10:2-14, N.J.S.A. 10:5-1, and N.J.S.A. 10:5-31 through 10:5-38;
- Prevailing Wage Act, N.J.S.A. 34:11-56.26, for all contracts within the contemplation of the Act;
- Public Works Contractor Registration Act, N.J.S.A. 34:11-56.26; and
- Bid and Performance Security, as required by the applicable municipal or state statutes.

NOTE: Caterpillar currently does not use OMNIA in the State of New Jersey. If Caterpillar is awarded RFP 212816, we will make sure that the local dealer complies with all necessary local regulations for use of the OMNIA master agreement in the State of New Jersey.

DOC #1

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

Part I Check the box that represents the type of business organization:

- ☐ Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- ☐ Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- ☐ For-Profit Corporation (any type) ☐ Limited Liability Company (LLC)
- ☐ Partnership ☐ Limited Partnership ☐ Limited Liability Partnership (LLP)
- ☐ Other (be specific): _____

Part II

- ☐ The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

- ☐ No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **<name of contracting unit>** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **<type of contracting unit>** to notify the **<type of contracting unit>** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **<type of contracting unit>** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

DOC #2

NON-COLLUSION AFFIDAVIT

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-H
Name of Form:	NON-COLLUSION AFFIDAVIT
Statutory Reference:	No specific statutory reference State Statutory Reference N.J.S.A. 52:34-15
Instructions Reference:	Statutory and Other Requirements VII-H
Description:	The Owner's use of this form is optional. It is used to ensure that the bidder has not participated in any collusion with any other bidder or Owner representative or otherwise taken any action in restraint of free and competitive bidding.

NON-COLLUSION AFFIDAVIT

State of New Jersey

County of _____

SS:

I, _____ residing in _____
(name of affiant) (name of municipality)

in the County of _____ and State of _____ of full
age, being duly sworn according to law on my oath depose and say that:

I am _____ of the firm of _____
(title or position) (name of firm)

_____ the bidder making this Proposal for the bid

entitled _____, and that I executed the said proposal with
(title of bid proposal)

full authority to do so that said bidder has not, directly or indirectly entered into any agreement,
participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in
connection with the above named project; and that all statements contained in said proposal and in this
affidavit are true and correct, and made with full knowledge that the _____

_____ relies upon the truth of the statements contained in said Proposal
(name of contracting unit)

and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such
contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent
fee, except bona fide employees or bona fide established commercial or selling agencies maintained by

_____.

Subscribed and sworn to

before me this day

Signature

_____, 2____

(Type or print name of affiant under signature)

Notary public of

My Commission expires _____

(Seal)

DOC #3

**AFFIRMATIVE ACTION AFFIDAVIT
(P.L. 1975, C.127)****Company Name:** _____**Street:** _____**City, State, Zip Code:** _____**Proposal Certification:**

Indicate below company's compliance with New Jersey Affirmative Action regulations. Company's proposal will be accepted even if company is not in compliance at this time. No contract and/or purchase order may be issued, however, until all Affirmative Action requirements are met.

Required Affirmative Action Evidence:

Procurement, Professional & Service Contracts (Exhibit A)

Vendors must submit with proposal:

1. A photo copy of their Federal Letter of Affirmative Action Plan Approval

OR

2. A photo copy of their Certificate of Employee Information Report

OR

3. A complete Affirmative Action Employee Information Report (AA302) _____

Public Work – Over \$50,000 Total Project Cost:

A. No approved Federal or New Jersey Affirmative Action Plan. We will complete Report Form AA201-A upon receipt from the

B. Approved Federal or New Jersey Plan – certificate enclosed

I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.

Date

Authorized Signature and Title

DOC #3, continued

P.L. 1995, c. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT PROFESSIONAL AND SERVICE
CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers trade consistent with the applicable county employment goal prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the state of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and lay-off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

Signature of Procurement Agent

DOC #4

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Public Agency Instructions

This page provides guidance to public agencies entering into contracts with business entities that are required to file Political Contribution Disclosure forms with the agency. **It is not intended to be provided to contractors.** What follows are instructions on the use of form local units can provide to contractors that are required to disclose political contributions pursuant to N.J.S.A. 19:44A-20.26 (P.L. 2005, c. 271, s.2). Additional information on the process is available in Local Finance Notice 2006-1 (http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). Please refer back to these instructions for the appropriate links, as the Local Finance Notices include links that are no longer operational.

1. The disclosure is required for all contracts in excess of \$17,500 that are **not awarded** pursuant to a “fair and open” process (N.J.S.A. 19:44A-20.7).
2. Due to the potential length of some contractor submissions, the public agency should consider allowing data to be submitted in electronic form (i.e., spreadsheet, pdf file, etc.). Submissions must be kept with the contract documents or in an appropriate computer file and be available for public access. **The form is worded to accept this alternate submission.** The text should be amended if electronic submission will not be allowed.
3. The submission must be **received from the contractor and** on file at least 10 days prior to award of the contract. Resolutions of award should reflect that the disclosure has been received and is on file.
4. The contractor must disclose contributions made to candidate and party committees covering a wide range of public agencies, including all public agencies that have elected officials in the county of the public agency, state legislative positions, and various state entities. The Division of Local Government Services recommends that contractors be provided a list of the affected agencies. This will assist contractors in determining the campaign and political committees of the officials and candidates affected by the disclosure.
 - a. The Division has prepared model disclosure forms for each county. They can be downloaded from the “County PCD Forms” link on the Pay-to-Play web site at <http://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html#12>. They will be updated from time-to-time as necessary.
 - b. A public agency using these forms **should edit them to properly reflect the correct legislative district(s)**. As the forms are county-based, **they list all legislative districts** in each county. **Districts that do not represent the public agency should be removed from the lists.**
 - c. Some contractors may find it easier to provide a single list that covers all contributions, regardless of the county. These submissions are appropriate and should be accepted.
 - d. The form may be used “as-is”, subject to edits as described herein.
 - e. The “Contractor Instructions” sheet is intended to be provided with the form. It is recommended that the Instructions and the form be printed on the same piece of paper. The form notes that the Instructions are printed on the back of the form; where that is not the case, the text should be edited accordingly.
 - f. The form is a Word document and can be edited to meet local needs, and posted for download on web sites, used as an e-mail attachment, or provided as a printed document.
5. It is recommended that the contractor also complete a “Stockholder Disclosure Certification.” This will assist the local unit in its obligation to ensure that contractor did not make any prohibited contributions to the committees listed on the Business Entity Disclosure Certification in the 12 months prior to the contract (See Local Finance Notice 2006-7 for additional information on this obligation at http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). A sample Certification form is part of this package and the instruction to complete it is included in the Contractor Instructions. NOTE: This section is not applicable to Boards of Education.

DOC #4, continued

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM**Contractor Instructions**

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a “fair and open” process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s.2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee*
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an “interest” ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs).

When the business entity is a natural person, “a contribution by that person’s spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.” [N.J.S.A. 19:44A-20.26(b)] The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed cover sheet) may be used as the contractor’s submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

* N.J.S.A. 19:44A-3(s): “The term “legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c.65 (C.19:44A-10.1) for the purpose of receiving contributions and making expenditures.”

DOC #4, continued

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM
Required Pursuant to N.J.S.A. 19:44A-20.26

This form or its permitted facsimile must be submitted to the local unit no later than 10 days prior to the award of the contract.

Part I – Vendor Information

Vendor Name:			
Address:			
City:		State:	Zip:

The undersigned being authorized to certify, hereby certifies that the submission provided herein represents compliance with the provisions of N.J.S.A. 19:44A-20.26 and as represented by the Instructions accompanying this form.

Signature _____ Printed Name _____ Title _____

Part II – Contribution Disclosure

Disclosure requirement: Pursuant to N.J.S.A. 19:44A-20.26 this disclosure must include all reportable political contributions (more than \$300 per election cycle) over the 12 months prior to submission to the committees of the government entities listed on the form provided by the local unit.

☐ Check here if disclosure is provided in electronic form

Contributor Name	Recipient Name	Date	Dollar Amount
			\$

☐ Check here if the information is continued on subsequent page(s)

DOC #4, continued

List of Agencies with Elected Officials Required for Political Contribution Disclosure
N.J.S.A. 19:44A-20.26

County Name:

State: Governor, and Legislative Leadership Committees

Legislative District #s:

State Senator and two members of the General Assembly per district.

County:

Freeholders

{County Executive}

County Clerk

Surrogate

Sheriff

Municipalities (Mayor and members of governing body, regardless of title):

**USERS SHOULD CREATE THEIR OWN FORM, OR DOWNLOAD
FROM THE PAY TO PLAY SECTION OF THE DLGS WEBSITE A
COUNTY-BASED, CUSTOMIZABLE FORM.**

DOC #5

STOCKHOLDER DISCLOSURE CERTIFICATION

Name of Business:

☐ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

☐ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

- ☐ Partnership
- ☐ Corporation
- ☐ Sole Proprietorship
- ☐ Limited Partnership
- ☐ Limited Liability Corporation
- ☐ Limited Liability Partnership
- ☐ Subchapter S Corporation

Sign and notarize the form below, and, if necessary, complete the stockholder list below.

Stockholders:

Name:	Name:
Home Address:	Home Address:
Name:	Name:
Home Address:	Home Address:
Name:	Name:
Home Address:	Home Address:

Subscribed and sworn before me this ____ day of _____, 2_.	_____ (Affiant)
(Notary Public)	_____ (Print name & title of affiant)
My Commission expires:	_____ (Corporate Seal)

DOC #6

Certification of Non-Involvement in Prohibited Activities in Iran

Pursuant to N.J.S.A. 52:32-58, Offerors must certify that neither the Offeror, nor any of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32 – 56(e) (3)), is listed on the Department of the Treasury’s List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither is involved in any of the investment activities set forth in N.J.S.A. 52:32 – 56(f).

Offerors wishing to do business in New Jersey through this contract must fill out the Certification of Non-Involvement in Prohibited Activities in Iran here:

http://www.state.nj.us/humanservices/dfd/info/standard/fdc/disclosure_investmentact.pdf.

Offerors should submit the above form completed with their proposal.

DOC #7

**NEW JERSEY BUSINESS REGISTRATION CERTIFICATE
(N.J.S.A. 52:32-44)**

Offerors wishing to do business in New Jersey must submit their State Division of Revenue issued Business Registration Certificate with their proposal here. Failure to do so will disqualify the Offeror from offering products or services in New Jersey through any resulting contract.

<https://www.njportal.com/DOR/BusinessRegistration/>

DOC #8

EEOAA EVIDENCE

Equal Employment Opportunity/Affirmative Action
Goods, Professional Services & General Service Projects

EEO/AA Evidence

Vendors are required to submit evidence of compliance with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 in order to be considered a responsible vendor.

One of the following must be included with submission:

- Copy of Letter of Federal Approval
- Certificate of Employee Information Report
- Fully Executed Form AA302
- Fully Executed EEO-1 Report

See the guidelines at: http://www.state.nj.us/treasury/contract_compliance/pdf/pa.pdf for further information.

I certify that my bid package includes the required evidence per the above list and State website.

Name: _____ Title: _____

Signature: _____ Date: _____

DOC #9

MCBRIDE-PRINCIPLES
**STATE OF NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY**
**33 WEST STATE STREET, P.O. BOX 230
TRENTON, NEW JERSEY 08625-0230**
MACBRIDE PRINCIPALS FORM**BID SOLICITATION #:** _____**VENDOR/BIDDER:** _____

**VENDOR'S/BIDDER'S REQUIREMENT
TO PROVIDE A CERTIFICATION IN COMPLIANCE WITH THE MACBRIDE PRINCIPALS
AND NORTHERN IRELAND ACT OF 1989**

Pursuant to Public Law 1995, c. 134, a responsible Vendor/Bidder selected, after public bidding, by the Director of the Division of Purchase and Property, pursuant to N.J.S.A. 52:34-12, must complete the certification below by checking one of the two options listed below and signing where indicated. If a Vendor/Bidder that would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Director may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another Vendor/Bidder that has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Director finds contractors to be in violation of the principals that are the subject of this law, he/she shall take such action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, on behalf the Vendor/Bidder, certify pursuant to N.J.S.A. 52:34-12.2 that:

☐

CHECK THE APPROPRIATE BOX

The Vendor/Bidder has no business operations in Northern Ireland; or

☐
OR

The Vendor/Bidder will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principals of nondiscrimination in employment as set forth in section 2 of P.L. 1987, c. 177 (N.J.S.A. 52:18A-89.5) and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of its compliance with those principals.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor/Bidder, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor/Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of **my** agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification to be void and unenforceable.

Signature

Date

Print Name and Title

Version July 27, 2021

Exhibit H
Advertising Compliance Requirement

Pursuant to certain state notice provisions, including but not limited to Oregon Revised Statutes Chapter 279A.220, the following public agencies and political subdivisions of the referenced public agencies are eligible to register with OMNIA Partners and access the Master Agreement contract award made pursuant to this solicitation, and are hereby given notice of the foregoing request for proposals for purposes of complying with the procedural requirements of said statutes:

Nationwide:

State of Alabama	State of Hawaii	Commonwealth of Massachusetts	State of New Mexico	State of South Dakota
State of Alaska	State of Idaho	State of Michigan	State of New York	State of Tennessee
State of Arizona	State of Illinois	State of Minnesota	State of North Carolina	State of Texas
State of Arkansas	State of Indiana	State of Mississippi	State of North Dakota	State of Utah
State of California	State of Iowa	State of Missouri	State of Ohio	State of Vermont
State of Colorado	State of Kansas	State of Montana	State of Oklahoma	Commonwealth of Virginia
State of Connecticut	Commonwealth of Kentucky	State of Nebraska	State of Oregon	State of Washington
State of Delaware	State of Louisiana	State of Nevada	Commonwealth of Pennsylvania	State of West Virginia
State of Florida	State of Maine	State of New Hampshire	State of Rhode Island	State of Wisconsin
State of Georgia	State of Maryland	State of New Jersey	State of South Carolina	State of Wyoming
District of Columbia				

Lists of political subdivisions and local governments in the above referenced states / districts may be found at http://www.usa.gov/Agencies/State_and_Territories.shtml and <https://www.usa.gov/local-governments>.

Certain Public Agencies and Political Subdivisions:

CITIES, TOWNS, VILLAGES AND BOROUGHS
INCLUDING BUT NOT LIMITED TO:

BAKER CITY GOLF COURSE, OR
CITY OF ADAIR VILLAGE, OR
CITY OF ASHLAND, OR
CITY OF AUMSVILLE, OR
CITY OF AURORA, OR
CITY OF BAKER, OR
CITY OF BATON ROUGE, LA
CITY OF BEAVERTON, OR
CITY OF BEND, OR
CITY OF BOARDMAN, OR
CITY OF BONANAZA, OR
CITY OF BOSSIER CITY, LA
CITY OF BROOKINGS, OR
CITY OF BURNS, OR
CITY OF CANBY, OR
CITY OF CANYONVILLE, OR
CITY OF CLATSKANIE, OR
CITY OF COBURG, OR
CITY OF CONDON, OR
CITY OF COQUILLE, OR
CITY OF CORVALLI, OR
CITY OF CORVALLIS PARKS AND RECREATION DEPARTMENT, OR
CITY OF COTTAGE GROVE, OR
CITY OF DONALD, OR
CITY OF EUGENE, OR
CITY OF FOREST GROVE, OR
CITY OF GOLD HILL, OR
CITY OF GRANTS PASS, OR
CITY OF GRESHAM, OR
CITY OF HILLSBORO, OR
CITY OF INDEPENDENCE, OR

CITY AND COUNTY OF HONOLULU, HI
CITY OF KENNER, LA
CITY OF LA GRANDE, OR
CITY OF LAFAYETTE, LA
CITY OF LAKE CHARLES, OR
CITY OF LEBANON, OR
CITY OF MCMINNVILLE, OR
CITY OF MEDFORD, OR
CITY OF METAIRIE, LA
CITY OF MILL CITY, OR
CITY OF MILWAUKIE, OR
CITY OF MONROE, LA
CITY OF MOSIER, OR
CITY OF NEW ORLEANS, LA
CITY OF NORTH PLAINS, OR
CITY OF OREGON CITY, OR
CITY OF PILOT ROCK, OR
CITY OF PORTLAND, OR
CITY OF POWERS, OR
CITY OF PRINEVILLE, OR
CITY OF REDMOND, OR
CITY OF REEDSPORT, OR
CITY OF RIDDLE, OR
CITY OF ROGUE RIVER, OR
CITY OF ROSEBURG, OR
CITY OF SALEM, OR
CITY OF SANDY, OR
CITY OF SCAPPOOSE, OR
CITY OF SHADY COVE, OR
CITY OF SHERWOOD, OR
CITY OF SHREVEPORT, LA
CITY OF SILVERTON, OR
CITY OF SPRINGFIELD, OR
CITY OF ST. HELENS, OR

CITY OF ST. PAUL, OR
 CITY OF SULPHUR, LA
 CITY OF TIGARD, OR
 CITY OF TROUTDALE, OR
 CITY OF TUALATIN, OR
 CITY OF WALKER, LA
 CITY OF WARRENTON, OR
 CITY OF WEST LINN, OR
 CITY OF WILSONVILLE, OR
 CITY OF WINSTON, OR
 CITY OF WOODBURN, OR
 LEAGUE OF OREGON CITES
 THE CITY OF HAPPY VALLEY OREGON
 ALPINE, UT
 ALTA, UT
 ALTAMONT, UT
 ALTON, UT
 AMALGA, UT
 AMERICAN FORK CITY, UT
 ANNABELLA, UT
 ANTIMONY, UT
 APPLE VALLEY, UT
 AURORA, UT
 BALLARD, UT
 BEAR RIVER CITY, UT
 BEAVER, UT
 BICKNELL, UT
 BIG WATER, UT
 BLANDING, UT
 BLUFFDALE, UT
 BOULDER, UT
 CITY OF BOUNTIFUL, UT
 BRIAN HEAD, UT
 BRIGHAM CITY CORPORATION, UT
 BRYCE CANYON CITY, UT
 CANNONVILLE, UT
 CASTLE DALE, UT
 CASTLE VALLEY, UT
 CITY OF CEDAR CITY, UT
 CEDAR FORT, UT
 CITY OF CEDAR HILLS, UT
 CENTERFIELD, UT
 CENTERVILLE CITY CORPORATION, UT
 CENTRAL VALLEY, UT
 CHARLESTON, UT
 CIRCLEVILLE, UT
 CLARKSTON, UT
 CLAWSON, UT
 CLEARFIELD, UT
 CLEVELAND, UT
 CLINTON CITY CORPORATION, UT
 COALVILLE, UT
 CORINNE, UT
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 EAST CARBON, UT
 ELK RIDGE, UT
 ELMO, UT
 ELSINORE, UT
 ELWOOD, UT
 EMERY, UT

Version July 27, 2021

ENOCH, UT
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 EPHRAIM, UT
 ESCALANTE, UT
 EUREKA, UT
 FAIRFIELD, UT
 FAIRVIEW, UT
 FARMINGTON, UT
 FARR WEST, UT
 FAYETTE, UT
 FERRON, UT
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 FILLMORE, UT
 FOUNTAIN GREEN, UT
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 FRUIT HEIGHTS, UT
 GARDEN CITY, UT
 GARLAND, UT
 GENOLA, UT
 GLENDALE, UT
 GLENWOOD, UT
 GOSHEN, UT
 GRANTSVILLE, UT
 GREEN RIVER, UT
 GUNNISON, UT
 HANKSVILLE, UT
 HARRISVILLE, UT
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 HEBER CITY CORPORATION, UT
 HELPER, UT
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 HERRIMAN, UT
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 HOOPER, UT
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 HUNTINGTON, UT
 HUNTSVILLE, UT
 CITY OF HURRICANE, UT
 HYDE PARK, UT
 HYRUM, UT
 INDEPENDENCE, UT
 IVINS, UT
 JOSEPH, UT
 JUNCTION, UT
 KAMAS, UT
 KANAB, UT
 KANARRAVILLE, UT
 KANOSH, UT
 KAYSVILLE, UT
 KINGSTON, UT
 KOOSHAREM, UT
 LAKETOWN, UT
 LA VERKIN, UT
 LAYTON, UT
 LEAMINGTON, UT
 LEEDS, UT
 LEHI CITY CORPORATION, UT
 LEVAN, UT
 LEWISTON, UT
 LINDON, UT

LOA, UT
 LOGAN CITY, UT
 LYMAN, UT
 LYNNDYL, UT
 MANILA, UT
 MANTI, UT
 MANTUA, UT
 MAPLETON, UT
 MARRIOTT-SLATERVILLE, UT
 MARYSVALE, UT
 MAYFIELD, UT
 MEADOW, UT
 MENDON, UT
 MIDVALE CITY INC., UT
 MIDWAY, UT
 MILFORD, UT
 MILLVILLE, UT
 MINERSVILLE, UT
 MOAB, UT
 MONA, UT
 MONROE, UT
 CITY OF MONTICELLO, UT
 MORGAN, UT
 MORONI, UT
 MOUNT PLEASANT, UT
 MURRAY CITY CORPORATION, UT
 MYTON, UT
 NAPLES, UT
 NEPHI, UT
 NEW HARMONY, UT
 NEWTON, UT
 NIBLEY, UT
 NORTH LOGAN, UT
 NORTH OGDEN, UT
 NORTH SALT LAKE CITY, UT
 OAK CITY, UT
 OAKLEY, UT
 OGDEN CITY CORPORATION, UT
 OPHIR, UT
 ORANGEVILLE, UT
 ORDERVILLE, UT
 OREM, UT
 PANGUITCH, UT
 PARADISE, UT
 PARAGONAH, UT
 PARK CITY, UT
 PAROWAN, UT
 PAYSON, UT
 PERRY, UT
 PLAIN CITY, UT
 PLEASANT GROVE CITY, UT
 PLEASANT VIEW, UT
 PLYMOUTH, UT
 PORTAGE, UT
 PRICE, UT
 PROVIDENCE, UT
 PROVO, UT
 RANDOLPH, UT
 REDMOND, UT
 RICHFIELD, UT
 RICHMOND, UT
 RIVERDALE, UT
 RIVER HEIGHTS, UT
 RIVERTON CITY, UT
 ROCKVILLE, UT
 ROCKY RIDGE, UT
 ROOSEVELT CITY CORPORATION, UT

Version July 27, 2021

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 RUSH VALLEY, UT
 CITY OF ST. GEORGE, UT
 SALEM, UT
 SALINA, UT
 SALT LAKE CITY CORPORATION, UT
 SANDY, UT
 SANTA CLARA, UT
 SANTAQUIN, UT
 SARATOGA SPRINGS, UT
 SCIPIO, UT
 SCOFIELD, UT
 SIGURD, UT
 SMITHFIELD, UT
 SNOWVILLE, UT
 CITY OF SOUTH JORDAN, UT
 SOUTH OGDEN, UT
 CITY OF SOUTH SALT LAKE, UT
 SOUTH WEBER, UT
 SPANISH FORK, UT
 SPRING CITY, UT
 SPRINGDALE, UT
 SPRINGVILLE, UT
 STERLING, UT
 STOCKTON, UT
 SUNNYSIDE, UT
 SUNSET CITY CORP, UT
 SYRACUSE, UT
 TABIONA, UT
 CITY OF TAYLORSVILLE, UT
 TOOEELE CITY CORPORATION, UT
 TOQUERVILLE, UT
 TORREY, UT
 TREMONTON CITY, UT
 TRENTON, UT
 TROPIC, UT
 UINTAH, UT
 VERNAL CITY, UT
 VERNON, UT
 VINEYARD, UT
 VIRGIN, UT
 WALES, UT
 WALLSBURG, UT
 WASHINGTON CITY, UT
 WASHINGTON TERRACE, UT
 WELLINGTON, UT
 WELLSVILLE, UT
 WENDOVER, UT
 WEST BOUNTIFUL, UT
 WEST HAVEN, UT
 WEST JORDAN, UT
 WEST POINT, UT
 WEST VALLEY CITY, UT
 WILLARD, UT
 WOODLAND HILLS, UT
 WOODRUFF, UT
 WOODS CROSS, UT

COUNTIES AND PARISHES INCLUDING BUT NOT LIMITED TO:

ASCENSION PARISH, LA
 ASCENSION PARISH, LA, CLEAR OF COURT
 CADDO PARISH, LA
 CALCASIEU PARISH, LA
 CALCASIEU PARISH SHERIFF'S OFFICE, LA
 CITY AND COUNTY OF HONOLULU, HI
 CLACKAMAS COUNTY, OR

CLACKAMAS COUNTY DEPT OF TRANSPORTATION,
 OR
 CLATSOP COUNTY, OR
 COLUMBIA COUNTY, OR
 COOS COUNTY, OR
 COOS COUNTY HIGHWAY DEPARTMENT, OR
 COUNTY OF HAWAII, OR
 CROOK COUNTY, OR
 CROOK COUNTY ROAD DEPARTMENT, OR
 CURRY COUNTY, OR
 DESCHUTES COUNTY, OR
 DOUGLAS COUNTY, OR
 EAST BATON ROUGE PARISH, LA
 GILLIAM COUNTY, OR
 GRANT COUNTY, OR
 HARNEY COUNTY, OR
 HARNEY COUNTY SHERIFFS OFFICE, OR
 HAWAII COUNTY, HI
 HOOD RIVER COUNTY, OR
 JACKSON COUNTY, OR
 JEFFERSON COUNTY, OR
 JEFFERSON PARISH, LA
 JOSEPHINE COUNTY GOVERNMENT, OR
 LAFAYETTE CONSOLIDATED GOVERNMENT, LA
 LAFAYETTE PARISH, LA
 LAFAYETTE PARISH CONVENTION & VISITORS
 COMMISSION
 LAFOURCHE PARISH, LA
 KAUAI COUNTY, HI
 KLAMATH COUNTY, OR
 LAKE COUNTY, OR
 LANE COUNTY, OR
 LINCOLN COUNTY, OR
 LINN COUNTY, OR
 LIVINGSTON PARISH, LA
 MALHEUR COUNTY, OR
 MAUI COUNTY, HI
 MARION COUNTY, SALEM, OR
 MORROW COUNTY, OR
 MULTNOMAH COUNTY, OR
 MULTNOMAH COUNTY BUSINESS AND
 COMMUNITY SERVICES, OR
 MULTNOMAH COUNTY SHERIFFS OFFICE, OR
 MULTNOMAH LAW LIBRARY, OR
 ORLEANS PARISH, LA
 PLAQUEMINES PARISH, LA
 POLK COUNTY, OR
 RAPIDES PARISH, LA
 SAINT CHARLES PARISH, LA
 SAINT CHARLES PARISH PUBLIC SCHOOLS, LA
 SAINT LANDRY PARISH, LA
 SAINT TAMMANY PARISH, LA
 SHERMAN COUNTY, OR
 TERREBONNE PARISH, LA
 TILLAMOOK COUNTY, OR
 TILLAMOOK COUNTY SHERIFF'S OFFICE, OR
 TILLAMOOK COUNTY GENERAL HOSPITAL, OR
 UMATILLA COUNTY, OR
 UNION COUNTY, OR
 WALLOWA COUNTY, OR
 WASCO COUNTY, OR
 WASHINGTON COUNTY, OR
 WEST BATON ROUGE PARISH, LA
 WHEELER COUNTY, OR
 YAMHILL COUNTY, OR
 COUNTY OF BOX ELDER, UT
 COUNTY OF CACHE, UT

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COUNTY OF RICH, UT
 COUNTY OF WEBER, UT
 COUNTY OF MORGAN, UT
 COUNTY OF DAVIS, UT
 COUNTY OF SUMMIT, UT
 COUNTY OF DAGGETT, UT
 COUNTY OF SALT LAKE, UT
 COUNTY OF TOOELE, UT
 COUNTY OF UTAH, UT
 COUNTY OF WASATCH, UT
 COUNTY OF DUCHESNE, UT
 COUNTY OF Uintah, UT
 COUNTY OF CARBON, UT
 COUNTY OF SANPETE, UT
 COUNTY OF JUAB, UT
 COUNTY OF MILLARD, UT
 COUNTY OF SEVIER, UT
 COUNTY OF EMERY, UT
 COUNTY OF GRAND, UT
 COUNTY OF BEVER, UT
 COUNTY OF PIUTE, UT
 COUNTY OF WAYNE, UT
 COUNTY OF SAN JUAN, UT
 COUNTY OF GARFIELD, UT
 COUNTY OF KANE, UT
 COUNTY OF IRON, UT
 COUNTY OF WASHINGTON, UT

**OTHER AGENCIES INCLUDING ASSOCIATIONS,
 BOARDS, DISTRICTS, COMMISSIONS, COUNCILS,
 PUBLIC CORPORATIONS, PUBLIC DEVELOPMENT
 AUTHORITIES, RESERVATIONS AND UTILITIES
 INCLUDING BUT NOT LIMITED TO:**

ADAIR R.F.P.D., OR
 ADEL WATER IMPROVEMENT DISTRICT, OR
 ADRIAN R.F.P.D., OR
 AGNESS COMMUNITY LIBRARY, OR
 AGNESS-ILLAHE R.F.P.D., OR
 AGRICULTURE EDUCATION SERVICE EXTENSION
 DISTRICT, OR
 ALDER CREEK-BARLOW WATER DISTRICT NO. 29,
 OR
 ALFALFA FIRE DISTRICT, OR
 ALSEA R.F.P.D., OR
 ALSEA RIVIERA WATER IMPROVEMENT DISTRICT,
 OR
 AMITY FIRE DISTRICT, OR
 ANTELOPE MEADOWS SPECIAL ROAD DISTRICT, OR
 APPLE ROGUE DISTRICT IMPROVEMENT COMPANY,
 OR
 APPEL GATE VALLEY R.F.P.D. #9, OR
 ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT,
 OR
 ARCH CAPE SANITARY DISTRICT, OR
 ARNOLD IRRIGATION DISTRICT, OR
 ASH CREEK WATER CONTROL DISTRICT, OR
 ATHENA CEMETERY MAINTENANCE DISTRICT, OR
 AUMSVILLE R.F.P.D., OR
 AURORA R.F.P.D., OR
 AZALEA R.F.P.D., OR
 BADGER IMPROVEMENT DISTRICT, OR
 BAILEY-SPENCER R.F.P.D., OR
 BAKER COUNTY LIBRARY DISTRICT, OR
 BAKER R.F.P.D., OR
 BAKER RIVERTON ROAD DISTRICT, OR
 BAKER VALLEY IRRIGATION DISTRICT, OR
 BAKER VALLEY S.W.C.D., OR

BAKER VALLEY VECTOR CONTROL DISTRICT, OR
 BANDON CRANBERRY WATER CONTROL DISTRICT,
 OR
 BANDON R.F.P.D., OR
 BANKS FIRE DISTRICT, OR
 BANKS FIRE DISTRICT #13, OR
 BAR L RANCH ROAD DISTRICT, OR
 BARLOW WATER IMPROVEMENT DISTRICT, OR
 BASIN AMBULANCE SERVICE DISTRICT, OR
 BASIN TRANSIT SERVICE TRANSPORTATION
 DISTRICT, OR
 BATON ROUGE WATER COMPANY
 BAY AREA HEALTH DISTRICT, OR
 BAYSHORE SPECIAL ROAD DISTRICT, OR
 BEAR VALLEY SPECIAL ROAD DISTRICT, OR
 BEAVER CREEK WATER CONTROL DISTRICT, OR
 BEAVER DRAINAGE IMPROVEMENT COMPANY,
 INC., OR
 BEAVER SLOUGH DRAINAGE DISTRICT, OR
 BEAVER SPECIAL ROAD DISTRICT, OR
 BEAVER WATER DISTRICT, OR
 BELLE MER S.I.G.L. TRACTS SPECIAL ROAD
 DISTRICT, OR
 BEND METRO PARK AND RECREATION DISTRICT
 BENTON S.W.C.D., OR
 BERNDT SUBDIVISION WATER IMPROVEMENT
 DISTRICT, OR
 BEVERLY BEACH WATER DISTRICT, OR
 BIENVILLE PARISH FIRE PROTECTION DISTRICT 6,
 LA
 BIG BEND IRRIGATION DISTRICT, OR
 BIGGS SERVICE DISTRICT, OR
 BLACK BUTTE RANCH DEPARTMENT OF POLICE
 SERVICES, OR
 BLACK BUTTE RANCH R.F.P.D., OR
 BLACK MOUNTAIN WATER DISTRICT, OR
 BLODGETT-SUMMIT R.F.P.D., OR
 BLUE MOUNTAIN HOSPITAL DISTRICT, OR
 BLUE MOUNTAIN TRANSLATOR DISTRICT, OR
 BLUE RIVER PARK & RECREATION DISTRICT, OR
 BLUE RIVER WATER DISTRICT, OR
 BLY R.F.P.D., OR
 BLY VECTOR CONTROL DISTRICT, OR
 BLY WATER AND SANITARY DISTRICT, OR
 BOARDMAN CEMETERY MAINTENANCE DISTRICT,
 OR
 BOARDMAN PARK AND RECREATION DISTRICT
 BOARDMAN R.F.P.D., OR
 BONANZA BIG SPRINGS PARK & RECREATION
 DISTRICT, OR
 BONANZA MEMORIAL PARK CEMETERY DISTRICT,
 OR
 BONANZA R.F.P.D., OR
 BONANZA-LANGELL VALLEY VECTOR CONTROL
 DISTRICT, OR
 BORING WATER DISTRICT #24, OR
 BOULDER CREEK RETREAT SPECIAL ROAD
 DISTRICT, OR
 BRIDGE R.F.P.D., OR
 BROOKS COMMUNITY SERVICE DISTRICT, OR
 BROWNSVILLE R.F.P.D., OR
 BUELL-RED PRAIRIE WATER DISTRICT, OR
 BUNKER HILL R.F.P.D. #1, OR
 BUNKER HILL SANITARY DISTRICT, OR
 BURLINGTON WATER DISTRICT, OR
 BURNT RIVER IRRIGATION DISTRICT, OR
 BURNT RIVER S.W.C.D., OR

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CALAPOOIA R.F.P.D., OR
 CAMAS VALLEY R.F.P.D., OR
 CAMELLIA PARK SANITARY DISTRICT, OR
 CAMMANN ROAD DISTRICT, OR
 CAMP SHERMAN ROAD DISTRICT, OR
 CANBY AREA TRANSIT, OR
 CANBY R.F.P.D. #62, OR
 CANBY UTILITY BOARD, OR
 CANNON BEACH R.F.P.D., OR
 CANYONVILLE SOUTH UMPQUA FIRE DISTRICT, OR
 CAPE FERRELO R.F.P.D., OR
 CAPE FOULWEATHER SANITARY DISTRICT, OR
 CARLSON PRIMROSE SPECIAL ROAD DISTRICT, OR
 CARMEL BEACH WATER DISTRICT, OR
 CASCADE VIEW ESTATES TRACT 2, OR
 CEDAR CREST SPECIAL ROAD DISTRICT, OR
 CEDAR TRAILS SPECIAL ROAD DISTRICT, OR
 CEDAR VALLEY - NORTH BANK R.F.P.D., OR
 CENTRAL CASCADES FIRE AND EMS, OR
 CENTRAL CITY ECONOMIC OPPORTUNITY CORP, LA
 CENTRAL LINCOLN P.U.D., OR
 CENTRAL OREGON COAST FIRE & RESCUE
 DISTRICT, OR
 CENTRAL OREGON INTERGOVERNMENTAL
 COUNCIL
 CENTRAL OREGON IRRIGATION DISTRICT, OR
 CHAPARRAL WATER CONTROL DISTRICT, OR
 CHARLESTON FIRE DISTRICT, OR
 CHARLESTON SANITARY DISTRICT, OR
 CHARLOTTE ANN WATER DISTRICT, OR
 CHEHALEM PARK & RECREATION DISTRICT, OR
 CHEHALEM PARK AND RECREATION DISTRICT
 CHEMULT R.F.P.D., OR
 CHENOWITH WATER P.U.D., OR
 CHERRIOTS, OR
 CHETCO COMMUNITY PUBLIC LIBRARY DISTRICT,
 OR
 CHILOQUIN VECTOR CONTROL DISTRICT, OR
 CHILOQUIN-AGENCY LAKE R.F.P.D., OR
 CHINOOK DRIVE SPECIAL ROAD DISTRICT, OR
 CHR DISTRICT IMPROVEMENT COMPANY, OR
 CHRISTMAS VALLEY DOMESTIC WATER DISTRICT,
 OR
 CHRISTMAS VALLEY PARK & RECREATION
 DISTRICT, OR
 CHRISTMAS VALLEY R.F.P.D., OR
 CITY OF BOGALUSA SCHOOL BOARD, LA
 CLACKAMAS COUNTY FIRE DISTRICT #1, OR
 CLACKAMAS COUNTY SERVICE DISTRICT #1, OR
 CLACKAMAS COUNTY VECTOR CONTROL
 DISTRICT, OR
 CLACKAMAS RIVER WATER
 CLACKAMAS RIVER WATER, OR
 CLACKAMAS S.W.C.D., OR
 CLATSKANIE DRAINAGE IMPROVEMENT
 COMPANY, OR
 CLATSKANIE LIBRARY DISTRICT, OR
 CLATSKANIE P.U.D., OR
 CLATSKANIE PARK & RECREATION DISTRICT, OR
 CLATSKANIE PEOPLE'S UTILITY DISTRICT
 CLATSKANIE R.F.P.D., OR
 CLATSOP CARE CENTER HEALTH DISTRICT, OR
 CLATSOP COUNTY S.W.C.D., OR
 CLATSOP DRAINAGE IMPROVEMENT COMPANY #15,
 INC., OR
 CLEAN WATER SERVICES
 CLEAN WATER SERVICES, OR

CLOVERDALE R.F.P.D., OR
 CLOVERDALE SANITARY DISTRICT, OR
 CLOVERDALE WATER DISTRICT, OR
 COALEDO DRAINAGE DISTRICT, OR
 COBURG FIRE DISTRICT, OR
 COLESTIN RURAL FIRE DISTRICT, OR
 COLTON R.F.P.D., OR
 COLTON WATER DISTRICT #11, OR
 COLUMBIA 911 COMMUNICATIONS DISTRICT, OR
 COLUMBIA COUNTY 4-H & EXTENSION SERVICE DISTRICT, OR
 COLUMBIA DRAINAGE VECTOR CONTROL, OR
 COLUMBIA IMPROVEMENT DISTRICT, OR
 COLUMBIA R.F.P.D., OR
 COLUMBIA RIVER FIRE & RESCUE, OR
 COLUMBIA RIVER PUD, OR
 COLUMBIA S.W.C.D., OR
 COLUMBIA S.W.C.D., OR
 CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
 COOS COUNTY AIRPORT DISTRICT, OR
 COOS COUNTY AIRPORT DISTRICT, OR
 COOS COUNTY AREA TRANSIT SERVICE DISTRICT, OR
 COOS COUNTY AREA TRANSIT SERVICE DISTRICT, OR
 COOS FOREST PROTECTIVE ASSOCIATION
 COOS S.W.C.D., OR
 COQUILLE R.F.P.D., OR
 COQUILLE VALLEY HOSPITAL DISTRICT, OR
 CORBETT WATER DISTRICT, OR
 CORNELIUS R.F.P.D., OR
 CORP RANCH ROAD WATER IMPROVEMENT, OR
 CORVALLIS R.F.P.D., OR
 COUNTRY CLUB ESTATES SPECIAL WATER DISTRICT, OR
 COUNTRY CLUB WATER DISTRICT, OR
 COUNTRY ESTATES ROAD DISTRICT, OR
 COVE CEMETERY MAINTENANCE DISTRICT, OR
 COVE ORCHARD SEWER SERVICE DISTRICT, OR
 COVE R.F.P.D., OR
 CRESCENT R.F.P.D., OR
 CRESCENT SANITARY DISTRICT, OR
 CRESCENT WATER SUPPLY AND IMPROVEMENT DISTRICT, OR
 CROOK COUNTY AGRICULTURE EXTENSION SERVICE DISTRICT, OR
 CROOK COUNTY CEMETERY DISTRICT, OR
 CROOK COUNTY FIRE AND RESCUE, OR
 CROOK COUNTY PARKS & RECREATION DISTRICT, OR
 CROOK COUNTY S.W.C.D., OR
 CROOK COUNTY VECTOR CONTROL DISTRICT, OR
 CROOKED RIVER RANCH R.F.P.D., OR
 CROOKED RIVER RANCH SPECIAL ROAD DISTRICT, OR
 CRYSTAL SPRINGS WATER DISTRICT, OR
 CURRY COUNTY 4-H & EXTENSION SERVICE DISTRICT, OR
 CURRY COUNTY PUBLIC TRANSIT SERVICE DISTRICT, OR
 CURRY COUNTY S.W.C.D., OR
 CURRY HEALTH DISTRICT, OR
 CURRY PUBLIC LIBRARY DISTRICT, OR
 DALLAS CEMETERY DISTRICT #4, OR
 DARLEY DRIVE SPECIAL ROAD DISTRICT, OR
 DAVID CROCKETT STEAM FIRE COMPANY #1, LA

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DAYS CREEK R.F.P.D., OR
 DAYTON FIRE DISTRICT, OR
 DEAN MINARD WATER DISTRICT, OR
 DEE IRRIGATION DISTRICT, OR
 DEER ISLAND DRAINAGE IMPROVEMENT COMPANY, OR
 DELL BROGAN CEMETERY MAINTENANCE DISTRICT, OR
 DEPOE BAY R.F.P.D., OR
 DESCHUTES COUNTY 911 SERVICE DISTRICT, OR
 DESCHUTES COUNTY R.F.P.D. #2, OR
 DESCHUTES PUBLIC LIBRARY DISTRICT, OR
 DESCHUTES S.W.C.D., OR
 DESCHUTES VALLEY WATER DISTRICT, OR
 DEVILS LAKE WATER IMPROVEMENT DISTRICT, OR
 DEXTER R.F.P.D., OR
 DEXTER SANITARY DISTRICT, OR
 DORA-SITKUM R.F.P.D., OR
 DOUGLAS COUNTY FIRE DISTRICT #2, OR
 DOUGLAS S.W.C.D., OR
 DRAKES CROSSING R.F.P.D., OR
 DRRH SPECIAL ROAD DISTRICT #6, OR
 DRY GULCH DITCH DISTRICT IMPROVEMENT COMPANY, OR
 DUFUR RECREATION DISTRICT, OR
 DUMBECK LANE DOMESTIC WATER SUPPLY, OR
 DUNDEE R.F.P.D., OR
 DURKEE COMMUNITY BUILDING PRESERVATION DISTRICT, OR
 EAGLE POINT IRRIGATION DISTRICT, OR
 EAGLE VALLEY CEMETERY MAINTENANCE DISTRICT, OR
 EAGLE VALLEY R.F.P.D., OR
 EAGLE VALLEY S.W.C.D., OR
 EAST FORK IRRIGATION DISTRICT, OR
 EAST MULTNOMAH S.W.C.D., OR
 EAST SALEM SERVICE DISTRICT, OR
 EAST UMATILLA CHEMICAL CONTROL DISTRICT, OR
 EAST UMATILLA COUNTY AMBULANCE AREA HEALTH DISTRICT, OR
 EAST UMATILLA COUNTY R.F.P.D., OR
 EAST VALLEY WATER DISTRICT, OR
 ELGIN COMMUNITY PARKS & RECREATION DISTRICT, OR
 ELGIN HEALTH DISTRICT, OR
 ELGIN R.F.P.D., OR
 ELKTON ESTATES PHASE II SPECIAL ROAD DISTRICT, OR
 ELKTON R.F.P.D., OR
 EMERALD P.U.D., OR
 ENTERPRISE IRRIGATION DISTRICT, OR
 ESTACADA CEMETERY MAINTENANCE DISTRICT, OR
 ESTACADA R.F.P.D. #69, OR
 EUGENE R.F.P.D. # 1, OR
 EUGENE WATER AND ELECTRIC BOARD
 EVANS VALLEY FIRE DISTRICT #6, OR
 FAIR OAKS R.F.P.D., OR
 FAIRVIEW R.F.P.D., OR
 FAIRVIEW WATER DISTRICT, OR
 FALCON HEIGHTS WATER AND SEWER, OR
 FALCON-COVE BEACH WATER DISTRICT, OR
 FALL RIVER ESTATES SPECIAL ROAD DISTRICT, OR
 FARGO INTERCHANGE SERVICE DISTRICT, OR
 FARMERS IRRIGATION DISTRICT, OR
 FAT ELK DRAINAGE DISTRICT, OR

FERN RIDGE PUBLIC LIBRARY DISTRICT, OR
 FERN VALLEY ESTATES IMPROVEMENT DISTRICT,
 OR
 FOR FAR ROAD DISTRICT, OR
 FOREST GROVE R.F.P.D., OR
 FOREST VIEW SPECIAL ROAD DISTRICT, OR
 FORT ROCK-SILVER LAKE S.W.C.D., OR
 FOUR RIVERS VECTOR CONTROL DISTRICT, OR
 FOX CEMETERY MAINTENANCE DISTRICT, OR
 GARDINER R.F.P.D., OR
 GARDINER SANITARY DISTRICT, OR
 GARIBALDI R.F.P.D., OR
 GASTON R.F.P.D., OR
 GATES R.F.P.D., OR
 GEARHART R.F.P.D., OR
 GILLIAM S.W.C.D., OR
 GLENDALE AMBULANCE DISTRICT, OR
 GLENDALE R.F.P.D., OR
 GLENEDEN BEACH SPECIAL ROAD DISTRICT, OR
 GLENEDEN SANITARY DISTRICT, OR
 GLENWOOD WATER DISTRICT, OR
 GLIDE - IDLEYLD SANITARY DISTRICT, OR
 GLIDE R.F.P.D., OR
 GOLD BEACH - WEDDERBURN R.F.P.D., OR
 GOLD HILL IRRIGATION DISTRICT, OR
 GOLDFINCH ROAD DISTRICT, OR
 GOSHEN R.F.P.D., OR
 GOVERNMENT CAMP ROAD DISTRICT, OR
 GOVERNMENT CAMP SANITARY DISTRICT, OR
 GRAND PRAIRIE WATER CONTROL DISTRICT, OR
 GRAND RONDE SANITARY DISTRICT, OR
 GRANT COUNTY TRANSPORTATION DISTRICT, OR
 GRANT S.W.C.D., OR
 GRANTS PASS IRRIGATION DISTRICT, OR
 GREATER BOWEN VALLEY R.F.P.D., OR
 GREATER ST. HELENS PARK & RECREATION
 DISTRICT, OR
 GREATER TOLEDO POOL RECREATION DISTRICT,
 OR
 GREEN KNOLLS SPECIAL ROAD DISTRICT, OR
 GREEN SANITARY DISTRICT, OR
 GREENACRES R.F.P.D., OR
 GREENBERRY IRRIGATION DISTRICT, OR
 GREENSPRINGS RURAL FIRE DISTRICT, OR
 HAHLEN ROAD SPECIAL DISTRICT, OR
 HAINES CEMETERY MAINTENANCE DISTRICT, OR
 HAINES FIRE PROTECTION DISTRICT, OR
 HALSEY-SHEDD R.F.P.D., OR
 HAMLET R.F.P.D., OR
 HARBOR R.F.P.D., OR
 HARBOR SANITARY DISTRICT, OR
 HARBOR WATER P.U.D., OR
 HARNEY COUNTY HEALTH DISTRICT, OR
 HARNEY S.W.C.D., OR
 HARPER SOUTH SIDE IRRIGATION DISTRICT, OR
 HARRISBURG FIRE AND RESCUE, OR
 HAUSER R.F.P.D., OR
 HAZELDELL RURAL FIRE DISTRICT, OR
 HEBO JOINT WATER-SANITARY AUTHORITY, OR
 HECETA WATER P.U.D., OR
 HELIX CEMETERY MAINTENANCE DISTRICT #4, OR
 HELIX PARK & RECREATION DISTRICT, OR
 HELIX R.F.P.D. #7-411, OR
 HEPPNER CEMETERY MAINTENANCE DISTRICT, OR
 HEPPNER R.F.P.D., OR
 HEPPNER WATER CONTROL DISTRICT, OR

HEREFORD COMMUNITY HALL RECREATION
 DISTRICT, OR
 HERMISTON CEMETERY DISTRICT, OR
 HERMISTON IRRIGATION DISTRICT, OR
 HIDDEN VALLEY MOBILE ESTATES IMPROVEMENT
 DISTRICT, OR
 HIGH DESERT PARK & RECREATION DISTRICT, OR
 HIGHLAND SUBDIVISION WATER DISTRICT, OR
 HONOLULU INTERNATIONAL AIRPORT
 HOOD RIVER COUNTY LIBRARY DISTRICT, OR
 HOOD RIVER COUNTY TRANSPORTATION DISTRICT,
 OR
 HOOD RIVER S.W.C.D., OR
 HOOD RIVER VALLEY PARKS & RECREATION
 DISTRICT, OR
 HOODLAND FIRE DISTRICT #74
 HOODLAND FIRE DISTRICT #74, OR
 HORSEFLY IRRIGATION DISTRICT, OR
 HOSKINS-KINGS VALLEY R.F.P.D., OR
 HOUSING AUTHORITY OF PORTLAND
 HUBBARD R.F.P.D., OR
 HUDSON BAY DISTRICT IMPROVEMENT COMPANY,
 OR
 I N (KAY) YOUNG DITCH DISTRICT IMPROVEMENT
 COMPANY, OR
 ICE FOUNTAIN WATER DISTRICT, OR
 IDAHO POINT SPECIAL ROAD DISTRICT, OR
 IDANHA-DETROIT RURAL FIRE PROTECTION
 DISTRICT, OR
 ILLINOIS VALLEY FIRE DISTRICT
 ILLINOIS VALLEY R.F.P.D., OR
 ILLINOIS VALLEY S.W.C.D., OR
 IMBLER R.F.P.D., OR
 INTERLACHEN WATER P.U.D., OR
 IONE LIBRARY DISTRICT, OR
 IONE R.F.P.D. #6-604, OR
 IRONSIDE CEMETERY MAINTENANCE DISTRICT, OR
 IRONSIDE RURAL ROAD DISTRICT #5, OR
 IRRIGON PARK & RECREATION DISTRICT, OR
 IRRIGON R.F.P.D., OR
 ISLAND CITY AREA SANITATION DISTRICT, OR
 ISLAND CITY CEMETERY MAINTENANCE DISTRICT,
 OR
 JACK PINE VILLAGE SPECIAL ROAD DISTRICT, OR
 JACKSON COUNTY FIRE DISTRICT #3, OR
 JACKSON COUNTY FIRE DISTRICT #4, OR
 JACKSON COUNTY FIRE DISTRICT #5, OR
 JACKSON COUNTY LIBRARY DISTRICT, OR
 JACKSON COUNTY VECTOR CONTROL DISTRICT, OR
 JACKSON S.W.C.D., OR
 JASPER KNOLLS WATER DISTRICT, OR
 JEFFERSON COUNTY EMERGENCY MEDICAL
 SERVICE DISTRICT, OR
 JEFFERSON COUNTY FIRE DISTRICT #1, OR
 JEFFERSON COUNTY LIBRARY DISTRICT, OR
 JEFFERSON COUNTY S.W.C.D., OR
 JEFFERSON PARK & RECREATION DISTRICT, OR
 JEFFERSON R.F.P.D., OR
 JOB'S DRAINAGE DISTRICT, OR
 JOHN DAY WATER DISTRICT, OR
 JOHN DAY-CANYON CITY PARKS & RECREATION
 DISTRICT, OR
 JOHN DAY-FERNHILL R.F.P.D. #5-108, OR
 JORDAN VALLEY CEMETERY DISTRICT, OR
 JORDAN VALLEY IRRIGATION DISTRICT, OR
 JOSEPHINE COMMUNITY LIBRARY DISTRICT, OR

JOSEPHINE COUNTY 4-H & EXTENSION SERVICE DISTRICT, OR
 JOSEPHINE COUNTY 911 AGENCY, OR
 JUNCTION CITY R.F.P.D., OR
 JUNCTION CITY WATER CONTROL DISTRICT, OR
 JUNIPER BUTTE ROAD DISTRICT, OR
 JUNIPER CANYON WATER CONTROL DISTRICT, OR
 JUNIPER FLAT DISTRICT IMPROVEMENT COMPANY, OR
 JUNIPER FLAT R.F.P.D., OR
 JUNO NONPROFIT WATER IMPROVEMENT DISTRICT, OR
 KEATING R.F.P.D., OR
 KEATING S.W.C.D., OR
 KEIZER R.F.P.D., OR
 KELLOGG RURAL FIRE DISTRICT, OR
 KENO IRRIGATION DISTRICT, OR
 KENO PINES ROAD DISTRICT, OR
 KENO R.F.P.D., OR
 KENT WATER DISTRICT, OR
 KERBY WATER DISTRICT, OR
 K-GB-LB WATER DISTRICT, OR
 KILCHIS WATER DISTRICT, OR
 KLAMATH 9-1-1 COMMUNICATIONS DISTRICT, OR
 KLAMATH BASIN IMPROVEMENT DISTRICT, OR
 KLAMATH COUNTY DRAINAGE SERVICE DISTRICT, OR
 KLAMATH COUNTY EXTENSION SERVICE DISTRICT, OR
 KLAMATH COUNTY FIRE DISTRICT #1, OR
 KLAMATH COUNTY FIRE DISTRICT #3, OR
 KLAMATH COUNTY FIRE DISTRICT #4, OR
 KLAMATH COUNTY FIRE DISTRICT #5, OR
 KLAMATH COUNTY LIBRARY SERVICE DISTRICT, OR
 KLAMATH COUNTY PREDATORY ANIMAL CONTROL DISTRICT, OR
 KLAMATH DRAINAGE DISTRICT, OR
 KLAMATH FALLS FOREST ESTATES SPECIAL ROAD DISTRICT UNIT #2, OR
 KLAMATH INTEROPERABILITY RADIO GROUP, OR
 KLAMATH IRRIGATION DISTRICT, OR
 KLAMATH RIVER ACRES SPECIAL ROAD DISTRICT, OR
 KLAMATH S.W.C.D., OR
 KLAMATH VECTOR CONTROL DISTRICT, OR
 KNAPPA-SVENSEN-BURNSIDE R.F.P.D., OR
 LA GRANDE CEMETERY MAINTENANCE DISTRICT, OR
 LA GRANDE R.F.P.D., OR
 LA PINE PARK & RECREATION DISTRICT, OR
 LA PINE R.F.P.D., OR
 LABISH VILLAGE SEWAGE & DRAINAGE, OR
 LACOMB IRRIGATION DISTRICT, OR
 LAFAYETTE AIRPORT COMMISSION, LA
 LAFOURCHE PARISH HEALTH UNIT – DHH-OPH REGION 3
 LAIDLAW WATER DISTRICT, OR
 LAKE CHINOOK FIRE & RESCUE, OR
 LAKE COUNTY 4-H & EXTENSION SERVICE DISTRICT, OR
 LAKE COUNTY LIBRARY DISTRICT, OR
 LAKE CREEK R.F.P.D. - JACKSON, OR
 LAKE CREEK R.F.P.D. - LANE COUNTY, OR
 LAKE DISTRICT HOSPITAL, OR
 LAKE GROVE R.F.P.D. NO. 57, OR
 LAKE GROVE WATER DISTRICT, OR

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LAKE LABISH WATER CONTROL DISTRICT, OR
 LAKE POINT SPECIAL ROAD DISTRICT, OR
 LAKESIDE R.F.P.D. #4, OR
 LAKESIDE WATER DISTRICT, OR
 LAKEVIEW R.F.P.D., OR
 LAKEVIEW S.W.C.D., OR
 LAMONTAI IMPROVEMENT DISTRICT, OR
 LANE FIRE AUTHORITY, OR
 LANE LIBRARY DISTRICT, OR
 LANE TRANSIT DISTRICT, OR
 LANGELL VALLEY IRRIGATION DISTRICT, OR
 LANGLOIS PUBLIC LIBRARY, OR
 LANGLOIS R.F.P.D., OR
 LANGLOIS WATER DISTRICT, OR
 LAZY RIVER SPECIAL ROAD DISTRICT, OR
 LEBANON AQUATIC DISTRICT, OR
 LEBANON R.F.P.D., OR
 LEWIS & CLARK R.F.P.D., OR
 LINCOLN COUNTY LIBRARY DISTRICT, OR
 LINCOLN S.W.C.D., OR
 LINN COUNTY EMERGENCY TELEPHONE AGENCY, OR
 LINN S.W.C.D., OR
 LITTLE MUDDY CREEK WATER CONTROL, OR
 LITTLE NESTUCCA DRAINAGE DISTRICT, OR
 LITTLE SWITZERLAND SPECIAL ROAD DISTRICT, OR
 LONE PINE IRRIGATION DISTRICT, OR
 LONG PRAIRIE WATER DISTRICT, OR
 LOOKINGGLASS OLALLA WATER CONTROL DISTRICT, OR
 LOOKINGGLASS RURAL FIRE DISTRICT, OR
 LORANE R.F.P.D., OR
 LOST & BOULDER DITCH IMPROVEMENT DISTRICT, OR
 LOST CREEK PARK SPECIAL ROAD DISTRICT, OR
 LOUISIANA PUBLIC SERVICE COMMISSION, LA
 LOUISIANA WATER WORKS
 LOWELL R.F.P.D., OR
 LOWER MCKAY CREEK R.F.P.D., OR
 LOWER MCKAY CREEK WATER CONTROL DISTRICT, OR
 LOWER POWDER RIVER IRRIGATION DISTRICT, OR
 LOWER SILETZ WATER DISTRICT, OR
 LOWER UMPQUA HOSPITAL DISTRICT, OR
 LOWER UMPQUA PARK & RECREATION DISTRICT, OR
 LOWER VALLEY WATER IMPROVEMENT DISTRICT, OR
 LUCE LONG DITCH DISTRICT IMPROVEMENT CO., OR
 LUSTED WATER DISTRICT, OR
 LYONS R.F.P.D., OR
 LYONS-MEHAMA WATER DISTRICT, OR
 MADRAS AQUATIC CENTER DISTRICT, OR
 MAKAI SPECIAL ROAD DISTRICT, OR
 MALHEUR COUNTY S.W.C.D., OR
 MALHEUR COUNTY VECTOR CONTROL DISTRICT, OR
 MALHEUR DISTRICT IMPROVEMENT COMPANY, OR
 MALHEUR DRAINAGE DISTRICT, OR
 MALHEUR MEMORIAL HEALTH DISTRICT, OR
 MALIN COMMUNITY CEMETERY MAINTENANCE DISTRICT, OR
 MALIN COMMUNITY PARK & RECREATION DISTRICT, OR
 MALIN IRRIGATION DISTRICT, OR
 MALIN R.F.P.D., OR

MAPLETON FIRE DEPARTMENT, OR
 MAPLETON WATER DISTRICT, OR
 MARCOLA WATER DISTRICT, OR
 MARION COUNTY EXTENSION & 4H SERVICE DISTRICT, OR
 MARION COUNTY FIRE DISTRICT #1, OR
 MARION JACK IMPROVEMENT DISTRICT, OR
 MARION S.W.C.D., OR
 MARY'S RIVER ESTATES ROAD DISTRICT, OR
 MCDONALD FOREST ESTATES SPECIAL ROAD DISTRICT, OR
 MCKAY ACRES IMPROVEMENT DISTRICT, OR
 MCKAY DAM R.F.P.D. # 7-410, OR
 MCKENZIE FIRE & RESCUE, OR
 MCKENZIE PALISADES WATER SUPPLY CORPORATION, OR
 MCMINNVILLE R.F.P.D., OR
 MCNULTY WATER P.U.D., OR
 MEADOWS DRAINAGE DISTRICT, OR
 MEDFORD IRRIGATION DISTRICT, OR
 MEDFORD R.F.P.D. #2, OR
 MEDFORD WATER COMMISSION
 MEDICAL SPRINGS R.F.P.D., OR
 MELHEUR COUNTY JAIL, OR
 MERLIN COMMUNITY PARK DISTRICT, OR
 MERRILL CEMETERY MAINTENANCE DISTRICT, OR
 MERRILL PARK DISTRICT, OR
 MERRILL R.F.P.D., OR
 METRO REGIONAL GOVERNMENT
 METRO REGIONAL PARKS
 METROPOLITAN EXPOSITION RECREATION COMMISSION
 METROPOLITAN SERVICE DISTRICT (METRO)
 MID COUNTY CEMETERY MAINTENANCE DISTRICT, OR
 MID-COLUMBIA FIRE AND RESCUE, OR
 MIDDLE FORK IRRIGATION DISTRICT, OR
 MIDLAND COMMUNITY PARK, OR
 MIDLAND DRAINAGE IMPROVEMENT DISTRICT, OR
 MILES CROSSING SANITARY SEWER DISTRICT, OR
 MILL CITY R.F.P.D. #2-303, OR
 MILL FOUR DRAINAGE DISTRICT, OR
 MILLICOMA RIVER PARK & RECREATION DISTRICT, OR
 MILLINGTON R.F.P.D. #5, OR
 MILO VOLUNTEER FIRE DEPARTMENT, OR
 MILTON-FREEWATER AMBULANCE SERVICE AREA HEALTH DISTRICT, OR
 MILTON-FREEWATER WATER CONTROL DISTRICT, OR
 MIROCO SPECIAL ROAD DISTRICT, OR
 MIST-BIRKENFELD R.F.P.D., OR
 MODOC POINT IRRIGATION DISTRICT, OR
 MODOC POINT SANITARY DISTRICT, OR
 MOHAWK VALLEY R.F.P.D., OR
 MOLALLA AQUATIC DISTRICT, OR
 MOLALLA R.F.P.D. #73, OR
 MONITOR R.F.P.D., OR
 MONROE R.F.P.D., OR
 MONUMENT CEMETERY MAINTENANCE DISTRICT, OR
 MONUMENT S.W.C.D., OR
 MOOREA DRIVE SPECIAL ROAD DISTRICT, OR
 MORO R.F.P.D., OR
 MORROW COUNTY HEALTH DISTRICT, OR
 MORROW COUNTY UNIFIED RECREATION DISTRICT, OR

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MORROW S.W.C.D., OR
 MOSIER FIRE DISTRICT, OR
 MOUNTAIN DRIVE SPECIAL ROAD DISTRICT, OR
 MT. ANGEL R.F.P.D., OR
 MT. HOOD IRRIGATION DISTRICT, OR
 MT. LAKE CEMETERY DISTRICT, OR
 MT. VERNON R.F.P.D., OR
 MULINO WATER DISTRICT #1, OR
 MULTNOMAH COUNTY DRAINAGE DISTRICT #1, OR
 MULTNOMAH COUNTY R.F.P.D. #10, OR
 MULTNOMAH COUNTY R.F.P.D. #14, OR
 MULTNOMAH EDUCATION SERVICE DISTRICT
 MYRTLE CREEK R.F.P.D., OR
 NEAH-KAH-NIE WATER DISTRICT, OR
 NEDONNA R.F.P.D., OR
 NEHALEM BAY FIRE AND RESCUE, OR
 NEHALEM BAY HEALTH DISTRICT, OR
 NEHALEM BAY WASTEWATER AGENCY, OR
 NESIKA BEACH-OPHIR WATER DISTRICT, OR
 NESKOWIN REGIONAL SANITARY AUTHORITY, OR
 NESKOWIN REGIONAL WATER DISTRICT, OR
 NESTUCCA R.F.P.D., OR
 NETARTS WATER DISTRICT, OR
 NETARTS-OCEANSIDE R.F.P.D., OR
 NETARTS-OCEANSIDE SANITARY DISTRICT, OR
 NEW BRIDGE WATER SUPPLY DISTRICT, OR
 NEW CARLTON FIRE DISTRICT, OR
 NEW ORLEANS REDEVELOPMENT AUTHORITY, LA
 NEW PINE CREEK R.F.P.D., OR
 NEWBERG R.F.P.D., OR
 NEWBERRY ESTATES SPECIAL ROAD DISTRICT, OR
 NEWPORT R.F.P.D., OR
 NEWT YOUNG DITCH DISTRICT IMPROVEMENT COMPANY, OR
 NORTH ALBANY R.F.P.D., OR
 NORTH BAY R.F.P.D. #9, OR
 NORTH CLACKAMAS PARKS & RECREATION DISTRICT, OR
 NORTH COUNTY RECREATION DISTRICT, OR
 NORTH DOUGLAS COUNTY FIRE & EMS, OR
 NORTH DOUGLAS PARK & RECREATION DISTRICT, OR
 NORTH GILLIAM COUNTY HEALTH DISTRICT, OR
 NORTH GILLIAM COUNTY R.F.P.D., OR
 NORTH LAKE HEALTH DISTRICT, OR
 NORTH LEBANON WATER CONTROL DISTRICT, OR
 NORTH LINCOLN FIRE & RESCUE DISTRICT #1, OR
 NORTH LINCOLN HEALTH DISTRICT, OR
 NORTH MORROW VECTOR CONTROL DISTRICT, OR
 NORTH SHERMAN COUNTY R.F.P.D. OR
 NORTH UNIT IRRIGATION DISTRICT, OR
 NORTHEAST OREGON HOUSING AUTHORITY, OR
 NORTHEAST WHEELER COUNTY HEALTH DISTRICT, OR
 NORTHERN WASCO COUNTY P.U.D., OR
 NORTHERN WASCO COUNTY PARK & RECREATION DISTRICT, OR
 NYE DITCH USERS DISTRICT IMPROVEMENT, OR
 NYSSA ROAD ASSESSMENT DISTRICT #2, OR
 NYSSA RURAL FIRE DISTRICT, OR
 NYSSA-ARCADIA DRAINAGE DISTRICT, OR
 OAK LODGE WATER SERVICES, OR
 OAKLAND R.F.P.D., OR
 OAKVILLE COMMUNITY CENTER, OR
 OCEANSIDE WATER DISTRICT, OR
 OCHOCO IRRIGATION DISTRICT, OR

OCHOCO WEST WATER AND SANITARY
 AUTHORITY, OR
 ODELL SANITARY DISTRICT, OR
 OLD OWYHEE DITCH IMPROVEMENT DISTRICT, OR
 OLNEY-WALLUSKI FIRE & RESCUE DISTRICT, OR
 ONTARIO LIBRARY DISTRICT, OR
 ONTARIO R.F.P.D., OR
 OPHIR R.F.P.D., OR
 OREGON COAST COMMUNITY ACTION
 OREGON HOUSING AND COMMUNITY SERVICES
 OREGON INTERNATIONAL PORT OF COOS BAY, OR
 OREGON LEGISLATIVE ADMINISTRATION
 OREGON OUTBACK R.F.P.D., OR
 OREGON POINT, OR
 OREGON TRAIL LIBRARY DISTRICT, OR
 OTTER ROCK WATER DISTRICT, OR
 OWW UNIT #2 SANITARY DISTRICT, OR
 OWYHEE CEMETERY MAINTENANCE DISTRICT, OR
 OWYHEE IRRIGATION DISTRICT, OR
 PACIFIC CITY JOINT WATER-SANITARY
 AUTHORITY, OR
 PACIFIC COMMUNITIES HEALTH DISTRICT, OR
 PACIFIC RIVIERA #3 SPECIAL ROAD DISTRICT, OR
 PALATINE HILL WATER DISTRICT, OR
 PALMER CREEK WATER DISTRICT IMPROVEMENT
 COMPANY, OR
 PANORAMIC ACCESS SPECIAL ROAD DISTRICT, OR
 PANTHER CREEK ROAD DISTRICT, OR
 PANTHER CREEK WATER DISTRICT, OR
 PARKDALE R.F.P.D., OR
 PARKDALE SANITARY DISTRICT, OR
 PENINSULA DRAINAGE DISTRICT #1, OR
 PENINSULA DRAINAGE DISTRICT #2, OR
 PHILOMATH FIRE AND RESCUE, OR
 PILOT ROCK CEMETERY MAINTENANCE DISTRICT
 #5, OR
 PILOT ROCK PARK & RECREATION DISTRICT, OR
 PILOT ROCK R.F.P.D., OR
 PINE EAGLE HEALTH DISTRICT, OR
 PINE FLAT DISTRICT IMPROVEMENT COMPANY, OR
 PINE GROVE IRRIGATION DISTRICT, OR
 PINE GROVE WATER DISTRICT-KLAMATH FALLS,
 OR
 PINE GROVE WATER DISTRICT-MAUPIN, OR
 PINE VALLEY CEMETERY DISTRICT, OR
 PINE VALLEY R.F.P.D., OR
 PINWOOD COUNTRY ESTATES SPECIAL ROAD
 DISTRICT, OR
 PIONEER DISTRICT IMPROVEMENT COMPANY, OR
 PISTOL RIVER CEMETERY MAINTENANCE
 DISTRICT, OR
 PISTOL RIVER FIRE DISTRICT, OR
 PLEASANT HILL R.F.P.D., OR
 PLEASANT HOME WATER DISTRICT, OR
 POCAHONTAS MINING AND IRRIGATION DISTRICT,
 OR
 POE VALLEY IMPROVEMENT DISTRICT, OR
 POE VALLEY PARK & RECREATION DISTRICT, OR
 POE VALLEY VECTOR CONTROL DISTRICT, OR
 POLK COUNTY FIRE DISTRICT #1, OR
 POLK S.W.C.D., OR
 POMPADOUR WATER IMPROVEMENT DISTRICT, OR
 PONDEROSA PINES EAST SPECIAL ROAD DISTRICT,
 OR
 PORT OF ALSEA, OR
 PORT OF ARLINGTON, OR
 PORT OF ASTORIA, OR

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PORT OF BANDON, OR
 PORT OF BRANDON, OR
 PORT OF BROOKINGS HARBOR, OR
 PORT OF CASCADE LOCKS, OR
 PORT OF COQUILLE RIVER, OR
 PORT OF GARIBALDI, OR
 PORT OF GOLD BEACH, OR
 PORT OF HOOD RIVER, OR
 PORT OF MORGAN CITY, LA
 PORT OF MORROW, OR
 PORT OF NEHALEM, OR
 PORT OF NEWPORT, OR
 PORT OF PORT ORFORD, OR
 PORT OF PORTLAND, OR
 PORT OF SIUSLAW, OR
 PORT OF ST. HELENS, OR
 PORT OF THE DALLES, OR
 PORT OF TILLAMOOK BAY, OR
 PORT OF TOLEDO, OR
 PORT OF UMATILLA, OR
 PORT OF UMPQUA, OR
 PORT ORFORD CEMETERY MAINTENANCE
 DISTRICT, OR
 PORT ORFORD PUBLIC LIBRARY DISTRICT, OR
 PORT ORFORD R.F.P.D., OR
 PORTLAND DEVELOPMENT COMMISSION, OR
 PORTLAND FIRE AND RESCUE
 PORTLAND HOUSING CENTER, OR
 POWDER R.F.P.D., OR
 POWDER RIVER R.F.P.D., OR
 POWDER VALLEY WATER CONTROL DISTRICT, OR
 POWERS HEALTH DISTRICT, OR
 PRAIRIE CEMETERY MAINTENANCE DISTRICT, OR
 PRINEVILLE LAKE ACRES SPECIAL ROAD DISTRICT
 #1, OR
 PROSPECT R.F.P.D., OR
 QUAIL VALLEY PARK IMPROVEMENT DISTRICT, OR
 QUEENER IRRIGATION IMPROVEMENT DISTRICT,
 OR
 RAINBOW WATER DISTRICT, OR
 RAINIER CEMETERY DISTRICT, OR
 RAINIER DRAINAGE IMPROVEMENT COMPANY, OR
 RALEIGH WATER DISTRICT, OR
 REDMOND AREA PARK & RECREATION DISTRICT,
 OR
 REDMOND FIRE AND RESCUE, OR
 RIDDLE FIRE PROTECTION DISTRICT, OR
 RIDGEWOOD DISTRICT IMPROVEMENT COMPANY,
 OR
 RIDGEWOOD ROAD DISTRICT, OR
 RIETH SANITARY DISTRICT, OR
 RIETH WATER DISTRICT, OR
 RIMROCK WEST IMPROVEMENT DISTRICT, OR
 RINK CREEK WATER DISTRICT, OR
 RIVER BEND ESTATES SPECIAL ROAD DISTRICT, OR
 RIVER FOREST ACRES SPECIAL ROAD DISTRICT, OR
 RIVER MEADOWS IMPROVEMENT DISTRICT, OR
 RIVER PINES ESTATES SPECIAL ROAD DISTRICT, OR
 RIVER ROAD PARK & RECREATION DISTRICT, OR
 RIVER ROAD WATER DISTRICT, OR
 RIVERBEND RIVERBANK WATER IMPROVEMENT
 DISTRICT, OR
 RIVERDALE R.F.P.D. 11-JT, OR
 RIVERGROVE WATER DISTRICT, OR
 RIVERSIDE MISSION WATER CONTROL DISTRICT,
 OR
 RIVERSIDE R.F.P.D. #7-406, OR

RIVERSIDE WATER DISTRICT, OR
 ROBERTS CREEK WATER DISTRICT, OR
 ROCK CREEK DISTRICT IMPROVEMENT, OR
 ROCK CREEK WATER DISTRICT, OR
 ROCKWOOD WATER P.U.D., OR
 ROCKY POINT FIRE & EMS, OR
 ROGUE RIVER R.F.P.D., OR
 ROGUE RIVER VALLEY IRRIGATION DISTRICT, OR
 ROGUE VALLEY SEWER SERVICES, OR
 ROGUE VALLEY SEWER, OR
 ROGUE VALLEY TRANSPORTATION DISTRICT, OR
 ROSEBURG URBAN SANITARY AUTHORITY, OR
 ROSEWOOD ESTATES ROAD DISTRICT, OR
 ROW RIVER VALLEY WATER DISTRICT, OR
 RURAL ROAD ASSESSMENT DISTRICT #3, OR
 RURAL ROAD ASSESSMENT DISTRICT #4, OR
 SAINT LANDRY PARISH TOURIST COMMISSION
 SAINT MARY PARISH REC DISTRICT 2
 SAINT MARY PARISH REC DISTRICT 3
 SAINT TAMMANY FIRE DISTRICT 4, LA
 SALEM AREA MASS TRANSIT DISTRICT, OR
 SALEM MASS TRANSIT DISTRICT
 SALEM SUBURBAN R.F.P.D., OR
 SALISHAN SANITARY DISTRICT, OR
 SALMON RIVER PARK SPECIAL ROAD DISTRICT, OR
 SALMON RIVER PARK WATER IMPROVEMENT
 DISTRICT, OR
 SALMONBERRY TRAIL INTERGOVERNMENTAL
 AGENCY, OR
 SANDPIPER VILLAGE SPECIAL ROAD DISTRICT, OR
 SANDY DRAINAGE IMPROVEMENT COMPANY, OR
 SANDY R.F.P.D. #72, OR
 SANTA CLARA R.F.P.D., OR
 SANTA CLARA WATER DISTRICT, OR
 SANTIAM WATER CONTROL DISTRICT, OR
 SAUVIE ISLAND DRAINAGE IMPROVEMENT
 COMPANY, OR
 SAUVIE ISLAND VOLUNTEER FIRE DISTRICT #30J,
 OR
 SCAPPOOSE DRAINAGE IMPROVEMENT COMPANY,
 OR
 SCAPPOOSE PUBLIC LIBRARY DISTRICT, OR
 SCAPPOOSE R.F.P.D., OR
 SCIO R.F.P.D., OR
 SCOTTSBURG R.F.P.D., OR
 SEAL ROCK R.F.P.D., OR
 SEAL ROCK WATER DISTRICT, OR
 SEWERAGE AND WATER BOARD OF NEW ORLEANS,
 LA
 SHANGRI-LA WATER DISTRICT, OR
 SHASTA VIEW IRRIGATION DISTRICT, OR
 SHELLEY ROAD CREST ACRES WATER DISTRICT,
 OR
 SHERIDAN FIRE DISTRICT, OR
 SHERMAN COUNTY HEALTH DISTRICT, OR
 SHERMAN COUNTY S.W.C.D., OR
 SHORELINE SANITARY DISTRICT, OR
 SILETZ KEYS SANITARY DISTRICT, OR
 SILETZ R.F.P.D., OR
 SILVER FALLS LIBRARY DISTRICT, OR
 SILVER LAKE IRRIGATION DISTRICT, OR
 SILVER LAKE R.F.P.D., OR
 SILVER SANDS SPECIAL ROAD DISTRICT, OR
 SILVERTON R.F.P.D. NO. 2, OR
 SISTERS PARKS & RECREATION DISTRICT, OR
 SISTERS-CAMP SHERMAN R.F.P.D., OR
 SIUSLAW PUBLIC LIBRARY DISTRICT, OR

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SIUSLAW S.W.C.D., OR
 SIUSLAW VALLEY FIRE AND RESCUE, OR
 SIXES R.F.P.D., OR
 SKIPANON WATER CONTROL DISTRICT, OR
 SKYLINE VIEW DISTRICT IMPROVEMENT
 COMPANY, OR
 SLEEPY HOLLOW WATER DISTRICT, OR
 SMITH DITCH DISTRICT IMPROVEMENT COMPANY,
 OR
 SOUTH CLACKAMAS TRANSPORTATION DISTRICT,
 OR
 SOUTH COUNTY HEALTH DISTRICT, OR
 SOUTH FORK WATER BOARD, OR
 SOUTH GILLIAM COUNTY CEMETERY DISTRICT, OR
 SOUTH GILLIAM COUNTY HEALTH DISTRICT, OR
 SOUTH GILLIAM COUNTY R.F.P.D. VI-301, OR
 SOUTH LAFOURCHE LEVEE DISTRICT, LA
 SOUTH LANE COUNTY FIRE & RESCUE, OR
 SOUTH SANTIAM RIVER WATER CONTROL
 DISTRICT, OR
 SOUTH SHERMAN FIRE DISTRICT, OR
 SOUTH SUBURBAN SANITARY DISTRICT, OR
 SOUTH WASCO PARK & RECREATION DISTRICT, OR
 SOUTHERN COOS HEALTH DISTRICT, OR
 SOUTHERN CURRY CEMETERY MAINTENANCE
 DISTRICT, OR
 SOUTHVIEW IMPROVEMENT DISTRICT, OR
 SOUTHWEST LINCOLN COUNTY WATER DISTRICT,
 OR
 SOUTHWESTERN POLK COUNTY R.F.P.D., OR
 SOUTHWOOD PARK WATER DISTRICT, OR
 SPECIAL ROAD DISTRICT #1, OR
 SPECIAL ROAD DISTRICT #8, OR
 SPRING RIVER SPECIAL ROAD DISTRICT, OR
 SPRINGFIELD UTILITY BOARD, OR
 ST. PAUL R.F.P.D., OR
 STANFIELD CEMETERY DISTRICT #6, OR
 STANFIELD IRRIGATION DISTRICT, OR
 STARR CREEK ROAD DISTRICT, OR
 STARWOOD SANITARY DISTRICT, OR
 STAYTON FIRE DISTRICT, OR
 SUBLIMITY FIRE DISTRICT, OR
 SUBURBAN EAST SALEM WATER DISTRICT, OR
 SUBURBAN LIGHTING DISTRICT, OR
 SUCCOR CREEK DISTRICT IMPROVEMENT
 COMPANY, OR
 SUMMER LAKE IRRIGATION DISTRICT, OR
 SUMMERVILLE CEMETERY MAINTENANCE
 DISTRICT, OR
 SUMNER R.F.P.D., OR
 SUN MOUNTAIN SPECIAL ROAD DISTRICT, OR
 SUNDOWN SANITATION DISTRICT, OR
 SUNFOREST ESTATES SPECIAL ROAD DISTRICT, OR
 SUNNYSIDE IRRIGATION DISTRICT, OR
 SUNRISE WATER AUTHORITY, OR
 SUNRIVER SERVICE DISTRICT, OR
 SUNSET EMPIRE PARK & RECREATION DISTRICT,
 OR
 SUNSET EMPIRE TRANSPORTATION DISTRICT, OR
 SURFLAND ROAD DISTRICT, OR
 SUTHERLIN VALLEY RECREATION DISTRICT, OR
 SUTHERLIN WATER CONTROL DISTRICT, OR
 SWALLEY IRRIGATION DISTRICT, OR
 SWEET HOME CEMETERY MAINTENANCE DISTRICT,
 OR
 SWEET HOME FIRE & AMBULANCE DISTRICT, OR
 SWISSHOME-DEADWOOD R.F.P.D., OR

TABLE ROCK DISTRICT IMPROVEMENT COMPANY,
 OR
 TALENT IRRIGATION DISTRICT, OR
 TANGENT R.F.P.D., OR
 TENMILE R.F.P.D., OR
 TERREBONNE DOMESTIC WATER DISTRICT, OR
 THE DALLES IRRIGATION DISTRICT, OR
 THOMAS CREEK-WESTSIDE R.F.P.D., OR
 THREE RIVERS RANCH ROAD DISTRICT, OR
 THREE SISTERS IRRIGATION DISTRICT, OR
 TIGARD TUALATIN AQUATIC DISTRICT, OR
 TIGARD WATER DISTRICT, OR
 TILLAMOOK BAY FLOOD IMPROVEMENT DISTRICT,
 OR
 TILLAMOOK COUNTY EMERGENCY
 COMMUNICATIONS DISTRICT, OR
 TILLAMOOK COUNTY S.W.C.D., OR
 TILLAMOOK COUNTY TRANSPORTATION DISTRICT,
 OR
 TILLAMOOK FIRE DISTRICT, OR
 TILLAMOOK P.U.D., OR
 TILLER R.F.P.D., OR
 TOBIN DITCH DISTRICT IMPROVEMENT COMPANY,
 OR
 TOLEDO R.F.P.D., OR
 TONE WATER DISTRICT, OR
 TOOLEY WATER DISTRICT, OR
 TRASK DRAINAGE DISTRICT, OR
 TRI CITY R.F.P.D. #4, OR
 TRI-CITY WATER & SANITARY AUTHORITY, OR
 TRI-COUNTY METROPOLITAN TRANSPORTATION
 DISTRICT OF OREGON
 TRIMET, OR
 TUALATIN HILLS PARK & RECREATION DISTRICT
 TUALATIN HILLS PARK & RECREATION DISTRICT,
 OR
 TUALATIN S.W.C.D., OR
 TUALATIN VALLEY FIRE & RESCUE
 TUALATIN VALLEY FIRE & RESCUE, OR
 TUALATIN VALLEY IRRIGATION DISTRICT, OR
 TUALATIN VALLEY WATER DISTRICT
 TUALATIN VALLEY WATER DISTRICT, OR
 TUMALO IRRIGATION DISTRICT, OR
 TURNER FIRE DISTRICT, OR
 TWIN ROCKS SANITARY DISTRICT, OR
 TWO RIVERS NORTH SPECIAL ROAD DISTRICT, OR
 TWO RIVERS S.W.C.D., OR
 TWO RIVERS SPECIAL ROAD DISTRICT, OR
 TYGH VALLEY R.F.P.D., OR
 TYGH VALLEY WATER DISTRICT, OR
 UMATILLA COUNTY FIRE DISTRICT #1, OR
 UMATILLA COUNTY S.W.C.D., OR
 UMATILLA COUNTY SPECIAL LIBRARY DISTRICT,
 OR
 UMATILLA HOSPITAL DISTRICT, OR
 UMATILLA R.F.P.D. #7-405, OR
 UMATILLA-MORROW RADIO AND DATA DISTRICT,
 OR
 UMPQUA S.W.C.D., OR
 UNION CEMETERY MAINTENANCE DISTRICT, OR
 UNION COUNTY SOLID WASTE DISPOSAL DISTRICT,
 OR
 UNION COUNTY VECTOR CONTROL DISTRICT, OR
 UNION GAP SANITARY DISTRICT, OR
 UNION GAP WATER DISTRICT, OR
 UNION HEALTH DISTRICT, OR
 UNION R.F.P.D., OR

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UNION S.W.C.D., OR
 UNITY COMMUNITY PARK & RECREATION
 DISTRICT, OR
 UPPER CLEVELAND RAPIDS ROAD DISTRICT, OR
 UPPER MCKENZIE R.F.P.D., OR
 UPPER WILLAMETTE S.W.C.D., OR
 VALE OREGON IRRIGATION DISTRICT, OR
 VALE RURAL FIRE PROTECTION DISTRICT, OR
 VALLEY ACRES SPECIAL ROAD DISTRICT, OR
 VALLEY VIEW CEMETERY MAINTENANCE
 DISTRICT, OR
 VALLEY VIEW WATER DISTRICT, OR
 VANDEVERT ACRES SPECIAL ROAD DISTRICT, OR
 VERNONIA R.F.P.D., OR
 VINEYARD MOUNTAIN PARK & RECREATION
 DISTRICT, OR
 VINEYARD MOUNTAIN SPECIAL ROAD DISTRICT,
 OR
 WALLA WALLA RIVER IRRIGATION DISTRICT, OR
 WALLOWA COUNTY HEALTH CARE DISTRICT, OR
 WALLOWA LAKE COUNTY SERVICE DISTRICT, OR
 WALLOWA LAKE IRRIGATION DISTRICT, OR
 WALLOWA LAKE R.F.P.D., OR
 WALLOWA S.W.C.D., OR
 WALLOWA VALLEY IMPROVEMENT DISTRICT #1,
 OR
 WAMIC R.F.P.D., OR
 WAMIC WATER & SANITARY AUTHORITY, OR
 WARMSPRINGS IRRIGATION DISTRICT, OR
 WASCO COUNTY S.W.C.D., OR
 WATER ENVIRONMENT SERVICES, OR
 WATER WONDERLAND IMPROVEMENT DISTRICT,
 OR
 WATERBURY & ALLEN DITCH IMPROVEMENT
 DISTRICT, OR
 WATSECO-BARVIEW WATER DISTRICT, OR
 WAUNA WATER DISTRICT, OR
 WEDDERBURN SANITARY DISTRICT, OR
 WEST EAGLE VALLEY WATER CONTROL DISTRICT,
 OR
 WEST EXTENSION IRRIGATION DISTRICT, OR
 WEST LABISH DRAINAGE & WATER CONTROL
 IMPROVEMENT DISTRICT, OR
 WEST MULTNOMAH S.W.C.D., OR
 WEST SIDE R.F.P.D., OR
 WEST SLOPE WATER DISTRICT, OR
 WEST UMATILLA MOSQUITO CONTROL DISTRICT,
 OR
 WEST VALLEY FIRE DISTRICT, OR
 WESTERN HEIGHTS SPECIAL ROAD DISTRICT, OR
 WESTERN LANE AMBULANCE DISTRICT, OR
 WESTLAND IRRIGATION DISTRICT, OR
 WESTON ATHENA MEMORIAL HALL PARK &
 RECREATION DISTRICT, OR
 WESTON CEMETERY DISTRICT #2, OR
 WESTPORT FIRE AND RESCUE, OR
 WESTRIDGE WATER SUPPLY CORPORATION, OR
 WESTWOOD HILLS ROAD DISTRICT, OR
 WESTWOOD VILLAGE ROAD DISTRICT, OR
 WHEELER S.W.C.D., OR
 WHITE RIVER HEALTH DISTRICT, OR
 WIARD MEMORIAL PARK DISTRICT, OR
 WICKIUP WATER DISTRICT, OR
 WILLAKENZIE R.F.P.D., OR
 WILLAMALANE PARK & RECREATION DISTRICT, OR
 WILLAMALANE PARK AND RECREATION DISTRICT
 WILLAMETTE HUMANE SOCIETY

WILLAMETTE RIVER WATER COALITION, OR
 WILLIAMS R.F.P.D., OR
 WILLOW CREEK PARK DISTRICT, OR
 WILLOW DALE WATER DISTRICT, OR
 WILSON RIVER WATER DISTRICT, OR
 WINCHESTER BAY R.F.P.D., OR
 WINCHESTER BAY SANITARY DISTRICT, OR
 WINCHUCK R.F.P.D., OR
 WINSTON-DILLARD R.F.P.D., OR
 WINSTON-DILLARD WATER DISTRICT, OR
 WOLF CREEK R.F.P.D., OR
 WOOD RIVER DISTRICT IMPROVEMENT COMPANY,
 OR
 WOODBURN R.F.P.D. NO. 6, OR
 WOODLAND PARK SPECIAL ROAD DISTRICT, OR
 WOODS ROAD DISTRICT, OR
 WRIGHT CREEK ROAD WATER IMPROVEMENT
 DISTRICT, OR
 WY'EAST FIRE DISTRICT, OR
 YACHATS R.F.P.D., OR
 YAMHILL COUNTY TRANSIT AREA, OR
 YAMHILL FIRE PROTECTION DISTRICT, OR
 YAMHILL SWCD, OR
 YONCALLA PARK & RECREATION DISTRICT, OR
 YOUNGS RIVER-LEWIS & CLARK WATER DISTRICT,
 OR
 ZUMWALT R.F.P.D., OR

K-12 INCLUDING BUT NOT LIMITED TO:

ACADIA PARISH SCHOOL BOARD
 BEAVERTON SCHOOL DISTRICT
 BEND-LA PINE SCHOOL DISTRICT
 BOGALUSA HIGH SCHOOL, LA
 BOSSIER PARISH SCHOOL BOARD
 BROOKING HARBOR SCHOOL DISTRICT
 CADDO PARISH SCHOOL DISTRICT
 CALCASIEU PARISH SCHOOL DISTRICT
 CANBY SCHOOL DISTRICT
 CANYONVILLE CHRISTIAN ACADEMY
 CASCADE SCHOOL DISTRICT
 CASCADES ACADEMY OF CENTRAL OREGON
 CENTENNIAL SCHOOL DISTRICT
 CENTRAL CATHOLIC HIGH SCHOOL
 CENTRAL POINT SCHOOL DISTRICT NO.6
 CENTRAL SCHOOL DISTRICT 13J
 COOS BAY SCHOOL DISTRICT NO.9
 CORVALLIS SCHOOL DISTRICT 509J
 COUNTY OF YAMHILL SCHOOL DISTRICT 29
 CULVER SCHOOL DISTRICT
 DALLAS SCHOOL DISTRICT NO.2
 DAVID DOUGLAS SCHOOL DISTRICT
 DAYTON SCHOOL DISTRICT NO.8
 DE LA SALLE N CATHOLIC HS
 DESCHUTES COUNTY SCHOOL DISTRICT NO.6
 DOUGLAS EDUCATIONAL DISTRICT SERVICE
 DUFUR SCHOOL DISTRICT NO.29
 EAST BATON ROUGE PARISH SCHOOL DISTRICT
 ESTACADA SCHOOL DISTRICT NO.10B
 FOREST GROVE SCHOOL DISTRICT
 GEORGE MIDDLE SCHOOL
 GLADSTONE SCHOOL DISTRICT
 GRANTS PASS SCHOOL DISTRICT 7
 GREATER ALBANY PUBLIC SCHOOL DISTRICT
 GRESHAM BARLOW JOINT SCHOOL DISTRICT
 HEAD START OF LANE COUNTY
 HIGH DESERT EDUCATION SERVICE DISTRICT
 HILLSBORO SCHOOL DISTRICT

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HOOD RIVER COUNTY SCHOOL DISTRICT
 JACKSON CO SCHOOL DIST NO.9
 JEFFERSON COUNTY SCHOOL DISTRICT 509-J
 JEFFERSON PARISH SCHOOL DISTRICT
 JEFFERSON SCHOOL DISTRICT
 JUNCTION CITY SCHOOLS, OR
 KLAMATH COUNTY SCHOOL DISTRICT
 KLAMATH FALLS CITY SCHOOLS
 LAFAYETTE PARISH SCHOOL DISTRICT
 LAKE OSWEGO SCHOOL DISTRICT 7J
 LANE COUNTY SCHOOL DISTRICT 4J
 LINCOLN COUNTY SCHOOL DISTRICT
 LINN CO. SCHOOL DIST. 95C
 LIVINGSTON PARISH SCHOOL DISTRICT
 LOST RIVER JR/SR HIGH SCHOOL
 LOWELL SCHOOL DISTRICT NO.71
 SALEM-KEIZER PUBLIC SCHOOLS 24J
 MARION COUNTY SCHOOL DISTRICT 103
 MARIST HIGH SCHOOL, OR
 MCMINNVILLE SCHOOL DISTRICT NOAO
 MEDFORD SCHOOL DISTRICT 549C
 MITCH CHARTER SCHOOL
 MONROE SCHOOL DISTRICT NO.1J
 MORROW COUNTY SCHOOL DIST, OR
 MULTNOMAH EDUCATION SERVICE DISTRICT
 MULTISENSORY LEARNING ACADEMY
 MYRTLE PINT SCHOOL DISTRICT 41
 NEAH-KAH-NIE DISTRICT NO.56
 NEWBERG PUBLIC SCHOOLS
 NESTUCCA VALLEY SCHOOL DISTRICT NO.101
 NOBEL LEARNING COMMUNITIES
 NORTH BEND SCHOOL DISTRICT 13
 NORTH CLACKAMAS SCHOOL DISTRICT
 NORTH DOUGLAS SCHOOL DISTRICT
 NORTH WASCO CITY SCHOOL DISTRICT 21
 NORTHWEST REGIONAL EDUCATION SERVICE
 DISTRICT
 ONTARIO MIDDLE SCHOOL
 OREGON TRAIL SCHOOL DISTRICT NOA6
 ORLEANS PARISH SCHOOL DISTRICT
 PHOENIX-TALENT SCHOOL DISTRICT NOA
 PLEASANT HILL SCHOOL DISTRICT
 PORTLAND JEWISH ACADEMY
 PORTLAND PUBLIC SCHOOLS
 RAPIDES PARISH SCHOOL DISTRICT
 REDMOND SCHOOL DISTRICT
 REYNOLDS SCHOOL DISTRICT
 ROGUE RIVER SCHOOL DISTRICT
 ROSEBURG PUBLIC SCHOOLS
 SCAPPOOSE SCHOOL DISTRICT 1J
 SAINT TAMMANY PARISH SCHOOL BOARD, LA
 SEASIDE SCHOOL DISTRICT 10
 SHERWOOD SCHOOL DISTRICT 88J
 SILVER FALLS SCHOOL DISTRICT 4J
 SOUTH LANE SCHOOL DISTRICT 45J3
 SOUTHERN OREGON EDUCATION SERVICE
 DISTRICT
 SPRINGFIELD PUBLIC SCHOOLS
 SUTHERLIN SCHOOL DISTRICT
 SWEET HOME SCHOOL DISTRICT NO.55
 TERREBONNE PARISH SCHOOL DISTRICT
 THE CATLIN GABEL SCHOOL
 TIGARD-TUALATIN SCHOOL DISTRICT
 UMATILLA MORROW ESD
 WEST LINN WILSONVILLE SCHOOL DISTRICT
 WILLAMETTE EDUCATION SERVICE DISTRICT
 WOODBURN SCHOOL DISTRICT

YONCALLA SCHOOL DISTRICT
 ACADEMY FOR MATH ENGINEERING & SCIENCE
 (AMES), UT
 ALIANZA ACADEMY, UT
 ALPINE DISTRICT, UT
 AMERICAN LEADERSHIP ACADEMY, UT
 AMERICAN PREPARATORY ACADEMY, UT
 BAER CANYON HIGH SCHOOL FOR SPORTS &
 MEDICAL SCIENCES, UT
 BEAR RIVER CHARTER SCHOOL, UT
 BEAVER SCHOOL DISTRICT, UT
 BEEHIVE SCIENCE & TECHNOLOGY ACADEMY
 (BSTA) , UT
 BOX ELDER SCHOOL DISTRICT, UT
 CBA CENTER, UT
 CACHE SCHOOL DISTRICT, UT
 CANYON RIM ACADEMY, UT
 CANYONS DISTRICT, UT
 CARBON SCHOOL DISTRICT, UT
 CHANNING HALL, UT
 CHARTER SCHOOL LEWIS ACADEMY, UT
 CITY ACADEMY, UT
 DAGGETT SCHOOL DISTRICT, UT
 DAVINCI ACADEMY, UT
 DAVIS DISTRICT, UT
 DUAL IMMERSION ACADEMY, UT
 DUCHESNE SCHOOL DISTRICT, UT
 EARLY LIGHT ACADEMY AT DAYBREAK, UT
 EAST HOLLYWOOD HIGH, UT
 EDITH BOWEN LABORATORY SCHOOL, UT
 EMERSON ALCOTT ACADEMY, UT
 EMERY SCHOOL DISTRICT, UT
 ENTHEOS ACADEMY, UT
 EXCELSIOR ACADEMY, UT
 FAST FORWARD HIGH, UT
 FREEDOM ACADEMY, UT
 GARFIELD SCHOOL DISTRICT, UT
 GATEWAY PREPARATORY ACADEMY, UT
 GEORGE WASHINGTON ACADEMY, UT
 GOOD FOUNDATION ACADEMY, UT
 GRAND SCHOOL DISTRICT, UT
 GRANITE DISTRICT, UT
 GUADALUPE SCHOOL, UT
 HAWTHORN ACADEMY, UT
 INTECH COLLEGIATE HIGH SCHOOL, UT
 IRON SCHOOL DISTRICT, UT
 ITINERIS EARLY COLLEGE HIGH, UT
 JOHN HANCOCK CHARTER SCHOOL, UT
 JORDAN DISTRICT, UT
 JUAB SCHOOL DISTRICT, UT
 KANE SCHOOL DISTRICT, UT
 KARL G MAESER PREPARATORY ACADEMY, UT
 LAKEVIEW ACADEMY, UT
 LEGACY PREPARATORY ACADEMY, UT
 LIBERTY ACADEMY, UT
 LINCOLN ACADEMY, UT
 LOGAN SCHOOL DISTRICT, UT
 MARIA MONTESSORI ACADEMY, UT
 MERIT COLLEGE PREPARATORY ACADEMY, UT
 MILLARD SCHOOL DISTRICT, UT
 MOAB CHARTER SCHOOL, UT
 MONTICELLO ACADEMY, UT
 MORGAN SCHOOL DISTRICT, UT
 MOUNTAINVILLE ACADEMY, UT
 MURRAY SCHOOL DISTRICT, UT
 NAVIGATOR POINTE ACADEMY, UT
 NEBO SCHOOL DISTRICT, UT

Version July 27, 2021

NO UT ACAD FOR MATH ENGINEERING & SCIENCE
 (NUAMES), UT
 NOAH WEBSTER ACADEMY, UT
 NORTH DAVIS PREPARATORY ACADEMY, UT
 NORTH SANPETE SCHOOL DISTRICT, UT
 NORTH STAR ACADEMY, UT
 NORTH SUMMIT SCHOOL DISTRICT, UT
 ODYSSEY CHARTER SCHOOL, UT
 OGDEN PREPARATORY ACADEMY, UT
 OGDEN SCHOOL DISTRICT, UT
 OPEN CLASSROOM, UT
 OPEN HIGH SCHOOL OF UTAH, UT
 OQUIRRH MOUNTAIN CHARTER SCHOOL, UT
 PARADIGM HIGH SCHOOL, UT
 PARK CITY SCHOOL DISTRICT, UT
 PINNACLE CANYON ACADEMY, UT
 PIUTE SCHOOL DISTRICT, UT
 PROVIDENCE HALL, UT
 PROVO SCHOOL DISTRICT, UT
 QUAIL RUN PRIMARY SCHOOL, UT
 QUEST ACADEMY, UT
 RANCHES ACADEMY, UT
 REAGAN ACADEMY, UT
 RENAISSANCE ACADEMY, UT
 RICH SCHOOL DISTRICT, UT
 ROCKWELL CHARTER HIGH SCHOOL, UT
 SALT LAKE ARTS ACADEMY, UT
 SALT LAKE CENTER FOR SCIENCE EDUCATION, UT
 SALT LAKE SCHOOL DISTRICT, UT
 SALT LAKE SCHOOL FOR THE PERFORMING ARTS,
 UT
 SAN JUAN SCHOOL DISTRICT, UT
 SEVIER SCHOOL DISTRICT, UT
 SOLDIER HOLLOW CHARTER SCHOOL, UT
 SOUTH SANPETE SCHOOL DISTRICT, UT
 SOUTH SUMMIT SCHOOL DISTRICT, UT
 SPECTRUM ACADEMY, UT
 SUCCESS ACADEMY, UT
 SUCCESS SCHOOL, UT
 SUMMIT ACADEMY, UT
 SUMMIT ACADEMY HIGH SCHOOL, UT
 SYRACUSE ARTS ACADEMY, UT
 THOMAS EDISON - NORTH, UT
 TIMPANOGOS ACADEMY, UT
 TINTIC SCHOOL DISTRICT, UT
 TOOEELE SCHOOL DISTRICT, UT
 TUACAHN HIGH SCHOOL FOR THE PERFORMING
 ARTS, UT
 UINTAH RIVER HIGH, UT
 UINTAH SCHOOL DISTRICT, UT
 UTAH CONNECTIONS ACADEMY, UT
 UTAH COUNTY ACADEMY OF SCIENCE, UT
 UTAH ELECTRONIC HIGH SCHOOL, UT
 UTAH SCHOOLS FOR DEAF & BLIND, UT
 UTAH STATE OFFICE OF EDUCATION, UT
 UTAH VIRTUAL ACADEMY, UT
 VENTURE ACADEMY, UT
 VISTA AT ENTRADA SCHOOL OF PERFORMING
 ARTS AND TECHNOLOGY, UT
 WALDEN SCHOOL OF LIBERAL ARTS, UT
 WASATCH PEAK ACADEMY, UT
 WASATCH SCHOOL DISTRICT, UT
 WASHINGTON SCHOOL DISTRICT, UT
 WAYNE SCHOOL DISTRICT, UT
 WEBER SCHOOL DISTRICT, UT
 WEILENMANN SCHOOL OF DISCOVERY, UT

HIGHER EDUCATION

ARGOSY UNIVERSITY
 BATON ROUGE COMMUNITY COLLEGE, LA
 BIRTHINGWAY COLLEGE OF MIDWIFERY
 BLUE MOUNTAIN COMMUNITY COLLEGE
 BRIGHAM YOUNG UNIVERSITY - HAWAII
 CENTRAL OREGON COMMUNITY COLLEGE
 CENTENARY COLLEGE OF LOUISIANA
 CHEMEKETA COMMUNITY COLLEGE
 CLACKAMAS COMMUNITY COLLEGE
 COLLEGE OF THE MARSHALL ISLANDS
 COLUMBIA GORGE COMMUNITY COLLEGE
 CONCORDIA UNIVERSITY
 GEORGE FOX UNIVERSITY
 KLAMATH COMMUNITY COLLEGE DISTRICT
 LANE COMMUNITY COLLEGE
 LEWIS AND CLARK COLLEGE
 LINFIELD COLLEGE
 LINN-BENTON COMMUNITY COLLEGE
 LOUISIANA COLLEGE, LA
 LOUISIANA STATE UNIVERSITY
 LOUISIANA STATE UNIVERSITY HEALTH SERVICES
 MARYLHURST UNIVERSITY
 MT. HOOD COMMUNITY COLLEGE
 MULTNOMAH BIBLE COLLEGE
 NATIONAL COLLEGE OF NATURAL MEDICINE
 NORTHWEST CHRISTIAN COLLEGE
 OREGON HEALTH AND SCIENCE UNIVERSITY
 OREGON INSTITUTE OF TECHNOLOGY
 OREGON STATE UNIVERSITY
 OREGON UNIVERSITY SYSTEM
 PACIFIC UNIVERSITY
 PIONEER PACIFIC COLLEGE
 PORTLAND COMMUNITY COLLEGE
 PORTLAND STATE UNIVERSITY
 REED COLLEGE
 RESEARCH CORPORATION OF THE UNIVERSITY OF
 HAWAII
 ROGUE COMMUNITY COLLEGE
 SOUTHEASTERN LOUISIANA UNIVERSITY
 SOUTHERN OREGON UNIVERSITY (OREGON
 UNIVERSITY SYSTEM)
 SOUTHWESTERN OREGON COMMUNITY COLLEGE
 TULANE UNIVERSITY
 TILLAMOOK BAY COMMUNITY COLLEGE
 UMPQUA COMMUNITY COLLEGE
 UNIVERSITY OF HAWAII BOARD OF REGENTS
 UNIVERSITY OF HAWAII-HONOLULU COMMUNITY
 COLLEGE
 UNIVERSITY OF OREGON-GRADUATE SCHOOL
 UNIVERSITY OF PORTLAND
 UNIVERSITY OF NEW ORLEANS
 WESTERN OREGON UNIVERSITY
 WESTERN STATES CHIROPRACTIC COLLEGE
 WILLAMETTE UNIVERSITY
 XAVIER UNIVERSITY
 UTAH SYSTEM OF HIGHER EDUCATION, UT
 UNIVERSITY OF UTAH, UT
 UTAH STATE UNIVERSITY, UT
 WEBER STATE UNIVERSITY, UT
 SOUTHERN UTAH UNIVERSITY, UT
 SNOW COLLEGE, UT
 DIXIE STATE COLLEGE, UT
 COLLEGE OF EASTERN UTAH, UT
 UTAH VALLEY UNIVERSITY, UT
 SALT LAKE COMMUNITY COLLEGE, UT
 UTAH COLLEGE OF APPLIED TECHNOLOGY, UT

Version July 27, 2021

STATE AGENCIES

ADMIN. SERVICES OFFICE
 BOARD OF MEDICAL EXAMINERS
 HAWAII CHILD SUPPORT ENFORCEMENT AGENCY
 HAWAII DEPARTMENT OF TRANSPORTATION
 HAWAII HEALTH SYSTEMS CORPORATION
 OFFICE OF MEDICAL ASSISTANCE PROGRAMS
 OFFICE OF THE STATE TREASURER
 OREGON BOARD OF ARCHITECTS
 OREGON CHILD DEVELOPMENT COALITION
 OREGON DEPARTMENT OF EDUCATION
 OREGON DEPARTMENT OF FORESTRY
 OREGON DEPT OF TRANSPORTATION
 OREGON DEPT. OF EDUCATION
 OREGON LOTTERY
 OREGON OFFICE OF ENERGY
 OREGON STATE BOARD OF NURSING
 OREGON STATE DEPT OF CORRECTIONS
 OREGON STATE POLICE
 OREGON TOURISM COMMISSION
 OREGON TRAVEL INFORMATION COUNCIL
 SANTIAM CANYON COMMUNICATION CENTER
 SEIU LOCAL 503, OPEU
 SOH- JUDICIARY CONTRACTS AND PURCH
 STATE DEPARTMENT OF DEFENSE, STATE OF
 HAWAII
 STATE OF HAWAII
 STATE OF HAWAII, DEPT. OF EDUCATION
 STATE OF LOUISIANA
 STATE OF LOUISIANA DEPT. OF EDUCATION
 STATE OF LOUISIANA, 26TH JUDICIAL DISTRICT
 ATTORNEY
 STATE OF UTAH

**SUBCONTRACT AGREEMENT FOR
GOVERNMENT AND OTHER COOPERATIVE PURCHASING CONTRACT(S)
BETWEEN [DEALER] AND CATERPILLAR INC.**

This agreement ("**Agreement**") is entered into as of _____, 2020, between _____ **[DEALER]** _____, a _____ corporation with its principal place of business located at _____ ("**Dealer**") and Caterpillar Inc., a Delaware corporation with its principal place of business located at 520 Lake Cook Road, Suite 100, Deerfield, Illinois 60015 ("**Caterpillar**"). Caterpillar and Dealer are sometimes referred to individually as "**Party**" and collectively as "**Parties.**"

WHEREAS, Caterpillar (or its affiliates as applicable), and Dealer are, among other agreements, Parties to a certain Sales and Service Agreement and Distribution Agreement for Engines, Parts and Service ("**Dealer Agreements**"), which are the primary agreements governing their relationship, , and this Agreement is not intended to replace or modify such agreements; and

WHEREAS, Caterpillar may from time to time enter into government and other cooperative purchasing contracts (individually referred to as a "**Purchasing Contract**" and collectively as the "**Purchasing Contracts**") with certain governmental or purchasing cooperative entities (the "**Governmental or Cooperative Agency**") , pursuant to which Caterpillar agrees to certain terms and conditions for the provision of Cat Products and Services (as defined below) to the members of or participants in the Governmental or Cooperative Agency (the "**Customers**") ; such Purchasing Contracts are concluded for the benefit of Cat dealers in that Cat dealers are invited to participate in them;

WHEREAS, Cat dealers are invited to independently decide to provide Cat Products and Services to the Customers of the Governmental or Cooperative Agency pursuant to the terms and conditions of the Purchasing Contract as a subcontractor or as otherwise designated in such Purchasing Contract, by entering into a Schedule (as defined below) to this Agreement ; and

WHEREAS, the Parties desire to establish the terms and conditions pursuant to which Dealer may become a subcontractor of Caterpillar or otherwise provide Cat Products and Services under a Purchasing Contract as described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants set forth below, the Parties hereby agree as follows:

1. PURCHASING CONTRACTS AND SCOPE OF THIS AGREEMENT

(a) The Parties acknowledge and agree that Dealer is an independent business from Caterpillar and as such has the right to choose whether or not to accept the terms and conditions contained in any Purchasing Contract. In the event that Caterpillar enters into a Purchasing Contract and the Parties agree that Dealer should be a subcontractor or otherwise provide Cat Products and Services pursuant to such Purchasing Contract, the Parties shall enter into a schedule to this Agreement substantially in the form attached hereto as Exhibit A (each a "**Schedule**") and the Dealer shall become a subcontractor of Caterpillar or otherwise provide Cat

Products and Services under such Purchasing Contract, subject to and in accordance with the terms and conditions of this Agreement.

(b) Caterpillar is or may be obligated to provide to Customers certain products and services as further defined in a Schedule (the “**Cat Products and Services**”) pursuant to Purchasing Contracts and have certain duties, rights, and obligations in connection with such Purchasing Contracts.

(c) This Agreement governs the relationship between Caterpillar and Dealer in the performance of the Purchasing Contracts. To the extent this Agreement does not specifically provide otherwise, the relevant terms of the Dealer Agreements apply to the relationship between Caterpillar and Dealer. In the event of a conflict between this Agreement and the Dealer Agreement, this Agreement shall control only to the extent such terms are expressly required by the Purchasing Contract, or applicable Law (as defined below).

(c) All the terms, conditions, covenants and representations contained herein and in the Purchasing Contracts, except as modified by this Agreement, are hereby incorporated by reference and deemed to be a part of this Agreement as if fully set forth at length herein. As between Caterpillar and the Dealer the terms and conditions of this Agreement shall supersede any conflicting terms and conditions set forth in the Purchasing Contract.

2. DEALER RESPONSIBILITIES

Upon execution of a Schedule for a Purchasing Contract:

(a) Dealer voluntarily agrees to be bound by the applicable terms of the Purchasing Contract between Caterpillar and the Governmental or Cooperative Agency as if Dealer were a party to such Cooperative Agreement in place of Caterpillar, except as otherwise provided herein or in any applicable Schedule.

(b) Dealer acknowledges they have read the Purchasing Contract and agrees to voluntarily create contractual relationships between Customers under such Purchasing Contract and Dealer.

(c) The Purchasing Contract is for use by Customers as allowed by the Governmental or Cooperative Agency. Dealer shall sell to such Customers entitled to purchase Caterpillar Products and Services under the Purchasing Contract pursuant to the terms and conditions provided therein.

(d) Dealer shall execute the obligations that are typically within the Dealer’s business pursuant to its Dealer Agreements with Caterpillar, including, without limitation, the sale and service of Cat Products and Services, or as otherwise directed by Caterpillar.

(e) As and to the extent permitted by and subject to the Purchasing Contract, Dealer shall have the right to establish its own prices for Cat Products and Services and other terms and conditions of sale. Any additional terms agreed to by Dealer and any Customer shall be solely between such parties.

(f) Upon request of Caterpillar, Dealer shall provide in a timely manner, any and all information reasonably requested by Caterpillar related to Dealer's provision of Cat Products and Services pursuant to the Purchasing Contract.

3. CATERPILLAR RESPONSIBILITIES

Upon execution of a Schedule for a Purchasing Contract:

(a) Caterpillar shall, at all times, retain sole responsibility for administration of any and all renewals, modifications, price list changes and changes to the terms and conditions of the Purchasing Contract.

(b) Caterpillar shall make available to the Dealer adequate information, data, assistance, instructions, and internal resources (collectively, the "**Information**") reasonably necessary or desirable for the Dealer to provide Cat Products and Services pursuant to the Purchasing Contract and this Agreement.

(c) Caterpillar shall assist, if necessary, to facilitate the Customers of the Purchasing Contract to timely make available to the Dealer adequate information, data, assistance, instructions, and internal resources reasonably necessary or desirable for the Dealer to provide Cat Products and Services pursuant to the Purchasing Contract and this Agreement.

4. MINIMUM CONTRACT VALUE

Unless otherwise expressly stated in a Schedule, no commitment of any kind is made by Caterpillar to Dealer concerning the quantity or value of Cat Products and Services to be sold by Dealer pursuant to the Purchasing Contract nor does Caterpillar make any representation or warranty or commitment with respect to usage of the Purchasing Contract by Customers.

5. PRICING

Any prompt payment terms (cash discounts) or quantity (volume) discounts which are included in the Purchasing Contracts will also be required to be offered by the Dealer to Customers under the Purchasing Contract.

6. INDEMNIFICATION

(a) Dealer hereby unconditionally and irrevocably agrees and undertakes, without objection, to hold Caterpillar, and its affiliates, and their directors, officers, employees and agents, representatives, successors and assigns (the "**Indemnified Parties**"), harmless and indemnified at all times against (a) all demands, claims, actions, proceedings (including, but not limited to, arbitration) arising from or related to the Purchasing Contract which may be threatened or made or brought against the Indemnified Parties and (b) all losses, damages, costs, charges and expenses, which the Indemnified Parties may suffer or incur or be put to by reason of or in consequence of or in connection with this Agreement or the Purchasing Contract, including, but not limited to, legal costs, expenses and lawyers' fees incurred by the Indemnified Parties in connection with any demand, claim, action or proceeding involving one or more of the

Indemnified Parties; provided that such demands, claims, damages, and losses are attributable to the performance or non-performance of Dealer's obligations under or related to this Agreement or the Purchasing Contract or otherwise related to Cat Products and Services sold by Dealer.

(b) Dealer further undertakes to do, perform and execute or cause to be done, performed and executed, any act, deed matter or thing which Caterpillar may require the Dealer to do for the purpose of holding harmless or indemnifying the Indemnified Parties.

(c) Dealer's indemnity of the Indemnified Parties shall not be considered discharged or extinguished by an intermediate payment or satisfaction of any part of a claim, loss or damage owed by Dealer to the Indemnified Parties by virtue of the indemnity obligation, but shall continue and shall extend to cover any and all claims, losses and damages until all the obligations of Dealer have been discharged.

7. LIMITATIONS ON LIABILITY

EXCEPT AS RESULTING FROM DEALER'S BREACH OF CONTRACTUAL, STATUTORY, REGULATORY, OR PERFORMANCE OBLIGATIONS OWED TO ANY GOVERNMENTAL OR COOPERATIVE AGENCY, CUSTOMERS OR OTHER THIRD PARTIES, IN NO EVENT SHALL A PARTY BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, RELIANCE, OR SIMILAR DAMAGES, LOSSES OR EXPENSES (INCLUDING LOST PROFITS, LOSS OF ACTUAL OR ANTICIPATED BUSINESS, SAVINGS, COMPETITIVE ADVANTAGE, OR GOODWILL, OR THE INTERRUPTION OF THE OTHER PARTY'S BUSINESS) UNDER OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE.

8. TERM

(a) The term of this Agreement ("**Term**") shall begin as of the date of execution of this Agreement and shall continue until two (2) years following the date after which Caterpillar has not had any Purchasing Contract in effect unless terminated sooner in accordance with the provision of this Agreement. Notwithstanding the foregoing, Dealer represents that prior to the Term it has complied with any obligations resulting from Dealer's performance under any Purchasing Contract, whether resulting from obligations under the Dealer Agreements, statute, regulation, performance, or otherwise and agrees to indemnify Caterpillar for such obligations in accordance with Article 7.

(b) Caterpillar may terminate this Agreement if (i) Caterpillar shall find any representation or warranty of Dealer to be incorrect or misleading or (ii) Dealer shall materially breach any material warranty, covenant or obligation contained in this Agreement, and Dealer shall fail to cure such breach, if capable of cure, within thirty (30) days from the date written notice specifying the nature of the breach is received by Dealer from Caterpillar.

(c) Dealer may terminate this Agreement if (i) Dealer shall find any representation or warranty of Caterpillar to be incorrect or misleading or (ii) Caterpillar may materially breach any material warranty, covenant or obligation contained in this Agreement, and Caterpillar, as the case may

be, shall fail to cure such breach, if capable of cure, within thirty (30) days from the date written notice specifying the nature of such breach is received by Caterpillar from Dealer, provided, however, that Caterpillar has completed or terminated Caterpillar's obligations with respect to Dealer under the Purchasing Contracts.

9. INDEPENDENT CONTRACTORS.

It is the intention of the Parties that the relationship existing between them shall be that of independent contractor and that nothing contained in this Agreement, the Purchasing Contracts or done pursuant to this Agreement or the Purchasing Contract shall constitute Dealer as the agent of Caterpillar for any purpose whatsoever.

10. FORCE MAJEURE

Either Party shall be excused for any failure or delay in the performance of any of its obligations under this Agreement if such failure or delay is due to a strike, lockout, work stoppage, labor dispute, material shortage, utility outage, fire, flood, earthquake, hurricane, severe weather, act of God, accident, trade sanction, embargo, act of war, acts of terrorism, conditions caused by national emergency, an pandemic or any other act of cause beyond the reasonable control or without the fault of such party, whether similar to or different from the causes above enumerated (a "**Force Majeure Event**") for as long as such circumstances prevail. The Parties shall remain liable for those obligations under this Agreement that are not affected by the Force Majeure Event.

11. ENTIRE AGREEMENT; NO WAIVER

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior representations, agreements and other understandings, oral or written, between Dealer and Caterpillar with respect to the subject matter hereof. There are no representations, agreements or understandings, express or implied, relating to the subject matter hereof which are not fully expressed in this Agreement. Each Party agrees to use good faith efforts to agree on those matters set forth in this Agreement that are to be mutually agreed by the Parties; provided, however, that no failure to agree on any such matter shall invalidate this Agreement or entitle either Party to terminate it. No departure from the terms of this Agreement shall obligate either Party to permit any subsequent departure. No waiver or failure to exercise any option, right or privilege under this Agreement by either Party on any occasion shall be construed to be a waiver of the same on any other occasion or of any other option, right or privilege.

12. COMPLIANCE WITH LAWS

Dealer represents and warrants that it has read, understands, and has been in compliance, and agrees that it shall comply with all applicable laws, rules, regulations, directives, ordinances, orders, or statutes (collectively, the "**Laws**"), including, but not limited to government procurement statutes and regulations. Further, Dealer represents and warrants and agrees that it has not acted, shall not act, and shall not cause, directly or indirectly, any other party to act, in any manner that would cause Caterpillar to violate the Laws. By entering into any transaction

with a Customer pursuant to a Purchasing Contract, , Dealer is representing to Caterpillar that, at the time of entering into such transaction, it is compliant with this Article 12.

13. SURVIVAL

The provisions set forth in this Agreement, and any other provision that by its terms survive termination, shall survive the termination of this Agreement to the extent required for their full observance and performance.

14. CHANGE ORDERS AND AMENDMENTS

All mutually agreed changes to this Agreement shall be implemented through a written amendment to this Agreement which, when signed by both Parties, shall be deemed a part of this Agreement. No amendment to this Agreement shall be valid unless in writing and signed by both Parties.

15. NOTICES

When written notice is required by this Agreement, it shall be sent by certified mail, by courier, or by such method as will permit the sender to verify delivery, to the addresses set forth below:

For Caterpillar:

For Dealer:

Caterpillar Inc.

520 Lake Cook Road, Suite 100
Deerfield, Illinois 60015

Attn: Deputy General Counsel –
Commercial

SAMPLE COPY
FOR REVIEW
ONLY.
NOT FOR
SIGNATURE.

Notice shall be deemed received when actually delivered to the recipient as demonstrated by postal records, courier records or other method verifying the date of delivery. The addresses set forth above can be changed only by written notice.

16. INTERPRETATION

In the interpretation of this Agreement, insofar as possible, the intention of the Parties as expressed in this Agreement shall prevail over any presumption or construction implied or imposed by Law. The word “including” means including without limitation. The headings contained in this Agreement are for convenience only and are not to be considered in interpreting this Agreement. The Parties agree that the terms of this Agreement shall not be construed in favor of or against a Party by reason of the extent to which such Party participated in its preparation.

17. GOVERNING LAW; SEVERABILITY

This Agreement shall be governed by the laws of the State of Illinois, United States of America (regardless of the laws that might be applicable under its principles of conflict of laws). If any provision of this Agreement, or the application thereof, is determined by a court of competent

jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement, all of which shall remain in full force and effect, and such other provisions shall be interpreted so as best to reasonably effect the intent of the Parties. The Parties further agree to replace any such invalid or unenforceable provision with a valid and enforceable provision designed to achieve, to the extent possible under applicable law, the business purpose and intent of such invalid or unenforceable provision.

18. COUNTERPARTS

This Agreement may be signed in one or more counterparts, each to be effective as an original. Once signed by the Parties, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date.

[DEALER NAME]

CATERPILLAR INC.

By: _____

Name: _____

Title: _____

Date: _____

SAMPLE COPY
FOR REVIEW
ONLY.
NOT FOR
SIGNATURE.

By: _____

Name: Chris Gustafson_____

Title: Glb. Accounts & Allied Prod. Mgr.

Date: _____

Exhibit A
to
Subcontract Agreement for Government and Other Cooperative Purchasing Contract(s)

SAMPLE ONLY, DO NOT COMPLETE BLANKS

SCHEDULE NO. _____

to

**SUBCONTRACT AGREEMENT FOR
GOVERNMENT AND OTHER COOPERATIVE PURCHASING CONTRACT(S)
BETWEEN [DEALER] AND CATERPILLAR INC.**

This Schedule No. ____ is effective as of _____, _____ ("**Schedule**"), to the Subcontract Agreement for Government and Other Cooperative Purchasing Contract(s), including any amendments and/or addendums thereto, by and between _____ ("**Dealer**") and Caterpillar Inc. ("**Caterpillar**") which was entered into as of _____, _____ ("**Subcontract Agreement**").

1. Purchasing Contract:

Caterpillar as entered into the Purchasing Contract attached hereto as **Annex A**, as summarized below.

Name of Purchasing Contract: _____

Purchasing Contract Identifier: _____

Governmental or Cooperative Agency: _____

Cat Products and Services: _____

2. Agreement:

Dealer shall be bound by the terms of the Purchasing Contract and obligated to perform as provided in the Subcontract Agreement as if Dealer were directly party to the Purchasing Contract in place of Caterpillar, as necessary for full performance under the Purchase Agreement, except as otherwise set forth in the Subcontract and this Schedule.

3. Reporting and Fees:

Dealer acknowledges that it is solely responsible for and obligated to pay any applicable fee for all Cat Products and Services or other products and services it provides as set forth in the Purchasing

Page 8 of 11

Contract. All reporting and fee payment obligations imposed on Dealer under the Purchasing Contract shall be made to Caterpillar directly in such manner and at such time as requested by Caterpillar, but in no event later than fifteen (15) business days before such report or payment is due to the Governmental or Cooperative Agency.

4. **Other Required Terms:**

[.....]

5. **Subcontract Agreement for Government and Other Cooperative Purchasing Contract(s):**

This Schedule is issued pursuant to the Subcontract Agreement. All of the terms and conditions of said Subcontract Agreement, including any amendments thereto, are incorporated herein and made a part hereof as if such terms and conditions were set forth in this Schedule.

[Signature to follow on the next page]

AGREED AND ACCEPTED:

[DEALER]

CATERPILLAR INC.

By: SAMPLE – DO NOT SIGN

By: SAMPLE – DO NOT SIGN

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Annex A
to
Schedule No. _____
to
Subcontract Agreement for Government and Other Cooperative Purchasing Contract(s)

PURCHASING CONTRACT

[See attached]

RFP 212816

Heavy Equipment, Parts, Accessories, Supplies and Related Services

ATTACHMENT B – City of Tucson

Certification of Living Wage Payments Form

*(This form must be completed by the Contractor and each applicable subcontractor.)*Contract Number: RFP212816

Contractor or Sub Name: The Contractor, Caterpillar Inc does not pay local dealer personnel who work on this contract. If awarded, it will be Empire Machinery's responsibility to provide this information.

(Please Check Only One of the Following Two Options)

N/A I do hereby agree to pay all eligible employees working on the above-referenced contract a minimum of \$10.86 per hour and provide health benefits. I also agree to pay at least 50% of the eligible employees' health benefits premium. Our firm's health insurance provider(s) are listed below:

Name of Health Insurance Company: _____

Address: _____

Telephone: _____

Fax Number: _____

Plan or Program Number: _____

Monthly premium paid by employer: _____ Monthly premium paid by employee _____

Name of Health Insurance Company: _____

Address: _____

Telephone: _____

Fax Number: _____

Plan or Program Number: _____

Monthly premium paid by employer: _____ Monthly premium paid by employee _____

N/A I do hereby agree to pay all eligible employees working on the above-referenced contract a minimum of \$12.15 per hour. I **do not** offer health benefits to eligible employees working on this contract and/or I **do not** pay at least 50% of the eligible employees' health benefits premium.

Caterpillar Inc

(Contractor /Sub-Contractor Name)

September 10, 2021

(Date)

DocuSigned by:
by Patrick Kearns
68A87926721B450
(Signature)
Patrick Kearns, NA Industry Manager
(Title)

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT

REQUEST FOR PROPOSAL NO. 212816

**HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED
SERVICES**

AMENDMENT NO. ONE (1)

DATE ISSUED: August 27, 2021

The referenced document has been modified as per the attached Amendment No. 1.

Please sign this Amendment where designated and return the executed copy with your PROPOSAL. This amendment is hereby made part of the referenced solicitation as though fully set forth therein. Any questions regarding this amendment should be addressed to Cynthia Thompson NIGP-CPP, CPPB, Principal Contract Officer at (520) 837-4134 or Cynthia.thompson@tucsonaz.gov

BUSINESS SERVICES DEPARTMENT
SHARED SERVICES - PROCUREMENT
CITY HALL • 255 W. ALAMEDA • P.O. BOX 27210 • TUCSON, AZ 85726-7210
(520) 791-4217 • FAX (520) 791-4735 • TTY (520) 791-2639
www.tucsonprocurement.com

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON BUSINESS SERVICES DEPARTMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
Phone: (520) 837-4134
ISSUE DATE: AUGUST 27, 2021

RFP NO.: 212816
RFP AMENDMENT NO.: 1
PAGE 1 OF 3

DUE DATE: SEPTEMBER 14, 2021
CONTRACT OFFICER: CYNTHIA THOMPSON, NIGP-CPP, CPPB

HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR PROPOSAL.
THIS RFP IS AMENDED AS FOLLOWS:

ITEM NO. ONE (1): DUE DATE

The Due Date shall remain the same and is due on, **TUESDAY, SEPTEMBER 14, 2021, at 2:00 P.M.**, LOCAL AZ TIME.

ITEM NO. TWO (2): DEADLINE FOR SUBMITTING QUESTIONS

Pursuant to Instructions to Offerors, paragraph 3. Inquiries, the deadline to submit written questions shall be no later than **SEPTEMBER 3RD, 2021, 4:00 p.m.** Local Arizona Time. Questions received after this date may not be answered prior to RFP due date. Questions shall be submitted via email to Cynthia.Thompson@tucsonaz.gov

ITEM NO. THREE (3): PRE-PROPOSAL QUESTIONS AND ANSWERS

QUESTION: What pieces of equipment are being used at the City of Tucson Landfill?

ANSWER: The following is a list of current equipment used at the City of Tucson Landfill Operations, located at 5300 E. Los Reales Road, Tucson, AZ.

- Quantity - 2, Caterpillar 836H Compactors
- Quantity - 1, Caterpillar 836K Compactor
- Quantity - 1, 980K Caterpillar loader
- Quantity - 1, 980M Caterpillar loader
- Quantity - 1, 914G Caterpillar loader
- Quantity - 1, D6R Caterpillar dozer
- Quantity - 1, D8T Caterpillar dozer
- Quantity - 2, D9T Caterpillar dozers
- Quantity - 1, 730EJ Caterpillar haul truck
- Quantity - 1, 745C Caterpillar haul truck
- Quantity - 1, 735WT Caterpillar water truck
- Quantity - 1, 140M Caterpillar grader
- Quantity - 1, 627G Caterpillar scraper
- Quantity - 1, 613CW Caterpillar water wagon
- Quantity - 1, 621GW Caterpillar water wagon
- Quantity - 1, 375H Sullair air compressor
- Quantity - 3, Magnum light towers

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON BUSINESS SERVICES DEPARTMENT
 255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
 P.O. BOX 27210, TUCSON, AZ 85726
 Phone: (520) 837-4134
 ISSUE DATE: AUGUST 27, 2021

RFP NO.: 212816
 RFP AMENDMENT NO.: 1
 PAGE 2 OF 3

DUE DATE: SEPTEMBER 14, 2021

CONTRACT OFFICER: CYNTHIA THOMPSON, NIGP-CPP, CPPB

QUESTION: "Could equipment such as Refuse Handling units: ASL, Front and Rear Loaders be considered Heavy Equipment?"

ANSWER: Refuse handling equipment as mentioned in the question would not be considered 'Heavy Equipment' for the purposes of this RFP. It could be included in the "Allied" products, but it would not qualify as an evaluated product.

QUESTION: Please provide clarification on the ability of the Offeror to be State specific in OMINIA participation. As an example, could an Interested Offeror select only the States they currently consider their regional areas?

ANSWER: Pursuant to Attachment A – Exhibit B- OMINIA Partners Exhibit A-Response for National Cooperative Contract, 3.2 Distribution, Logistics, Offerors are encouraged to respond with their total service areas.

QUESTION: How does the City intend to make contract award?

ANSWER: To provide adequate contract coverage, and at the City's sole discretion, multiple awards may be made. If multiple awards are made, it will be up to each individual using department to determine which awarded Contractor they will use to meet their operational needs.

QUESTION: Please clarify, what is the City's estimated spend over the full potential Master Agreement term (5 years) for Heavy Equipment, Parts, Accessories, Supplies and Related Services?

ANSWER: The City anticipates spending approximately \$11.8 million over the full potential Master Agreement term (5 years) for Heavy Equipment, Parts, Accessories, Supplies and Related Services.

END OF AMENDMENT

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.
 VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

DocuSigned by:

Patrick Kearns

88A87926721B4E0...
 Signature

09/10/21

Date

Patrick Kearns, North America Industry Manager
 Print Name and Title

Caterpillar Inc.

Company Name

100 NE Adams St.

Address

Peoria

City

IL

State

61629

Zip

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT

REQUEST FOR PROPOSAL NO. 212816

**HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED
SERVICES**

AMENDMENT NO. TWO (2)

DATE ISSUED: September 10, 2021

The referenced document has been modified as per the attached Amendment No. 2.

Please sign this Amendment where designated and return the executed copy with your PROPOSAL. This amendment is hereby made part of the referenced solicitation as though fully set forth therein. Any questions regarding this amendment should be addressed to Cynthia Thompson NIGP-CPP, CPPB, Principal Contract Officer at (520) 837-4134 or Cynthia.thompson@tucsonaz.gov

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON BUSINESS SERVICES DEPARTMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
Phone: (520) 837-4134
ISSUE DATE: SEPTEMBER 10, 2021

RFP NO.: 212816
RFP AMENDMENT NO.: 2
PAGE 1 OF 2

DUE DATE: SEPTEMBER 21, 2021
CONTRACT OFFICER: CYNTHIA THOMPSON, NIGP-CPP, CPPB

HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR PROPOSAL.
THIS RFP IS AMENDED AS FOLLOWS:

ITEM NO. ONE (1): DUE DATE

The Due Date is hereby **changed** and is due on, **TUESDAY, SEPTEMBER 21, 2021, at 2:00 P.M.,**
LOCAL AZ TIME.

END OF AMENDMENT

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

DocuSigned by:

Patrick Kearns

09/10/21

Signature

Date

Patrick Kearns, North America Industry Manager
Print Name and Title

Caterpillar Inc.

Company Name

100 NE Adams St.

Address

Peoria

City

IL

State

61629

Zip

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT

REQUEST FOR PROPOSAL NO. 212816

**HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED
SERVICES**

AMENDMENT NO. THREE (3)

DATE ISSUED: September 15, 2021

The referenced document has been modified as per the attached Amendment No. 3.

Please sign this Amendment where designated and return the executed copy with your PROPOSAL. This amendment is hereby made part of the referenced solicitation as though fully set forth therein. Any questions regarding this amendment should be addressed to Cynthia Thompson NIGP-CPP, CPPB, Principal Contract Officer at (520) 837-4134 or Cynthia.thompson@tucsonaz.gov

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON BUSINESS SERVICES DEPARTMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
Phone: (520) 837-4134
ISSUE DATE: SEPTEMBER 15, 2021

RFP NO.: 212816
RFP AMENDMENT NO.: 3
PAGE 1 OF 2

DUE DATE: SEPTEMBER 24, 2021
CONTRACT OFFICER: CYNTHIA THOMPSON, NIGP-CPP, CPPB

HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR PROPOSAL.
THIS RFP IS AMENDED AS FOLLOWS:

ITEM NO. ONE (1): DUE DATE

The Due Date is hereby **changed** and is due on, **FRIDAY, SEPTEMBER 24, 2021, at 2:00 P.M.**, LOCAL AZ TIME.

END OF AMENDMENT

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

DocuSigned by:

Patrick Kearns

68A87926721B4E0...
Signature

09/16/2021
Date

Patrick Kearns, North America Industry Manager
Print Name and Title

Caterpillar Inc.
Company Name

100 NE Adams St.
Address

Peoria IL 61629
City State Zip

Contract 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

Caterpillar, Inc. Insurance Documents



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
09/27/2022

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 Aon Risk Services Central, Inc. Chicago IL Office 200 East Randolph Chicago IL 60601 USA	CONTACT NAME:	
	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED Caterpillar Inc. 100 NE Adams Street Peoria IL 61629 USA	INSURER A: Old Republic Insurance Company	24147
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

Holder Identifier :

COVERAGES**CERTIFICATE NUMBER:** 570095599830**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.

Limits shown are as requested

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 ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC ☐ OTHER:			MWZY31381322	07/01/2022	07/01/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) 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 ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY			MWTB 313812 22	07/01/2022	07/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION						EACH OCCURRENCE AGGREGATE
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contractual Liability is included in the General Liability policy. RE: Contract is for RFP 212816 Heavy Equipment, Parts, Accessories, Supplies and Related Services. City of Tucson is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability and Automobile Liability policies evidenced herein are Primary and Non-Contributory to other insurance available to Additional Insured, but only in accordance with the policy's provisions. A waiver of Subrogation is granted in favor of City of Tucson in accordance with the policy provisions of the General Liability and Automobile Liability policies.

CERTIFICATE HOLDER**CANCELLATION**

City of Tucson Attn: OMNIA Partners City of Tucson RFP 212816 City Hall, 255 W. Alameda 8th Floor East Tucson AZ 85701 USA	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 <i>Aon Risk Services Central, Inc.</i>

Certificate No : 570095599830

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

Name Of Person(s) Or Organization(s):

Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions**:

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

POLICY NUMBER:

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Caterpillar Inc.

Endorsement Effective Date: 07/01/22

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

Any person or organization whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/28/2022

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 MARSH USA INC. 540 W. MADISON CHICAGO, IL 60661	CONTACT NAME: Marsh U.S. Operations PHONE (A/C, No, Ext): 866-966-4664 E-MAIL ADDRESS: Chicago.CertRequest@marsh.com FAX (A/C, No): 212-948-0770														
CN101198626-CLS-WC-22-23	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A : Liberty Insurance Corporation</td><td>42404</td></tr><tr><td>INSURER B :</td><td></td></tr><tr><td>INSURER C :</td><td></td></tr><tr><td>INSURER D :</td><td></td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Liberty Insurance Corporation	42404	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A : Liberty Insurance Corporation	42404														
INSURER B :															
INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															
INSURED Caterpillar, Inc. 100 NE Adamst St Peoria, IL 61629															

COVERAGES

CERTIFICATE NUMBER:

CHI-010143453-01

REVISION NUMBER: 12

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
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	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	N/A	WA7-64D-004320-012 See Attached WC7-641-444315-062 MN, WI	07/01/2022	07/01/2023	X 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							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Equipment being used on public agency job sites

Waiver of subrogation is applicable where required by written contract and subject to policy terms and conditions.

CERTIFICATE HOLDER

CANCELLATION

City of Tucson
Attn: City of Tucson / OMNIA Partners
City of Tucson RFP 212816
City Hall, 255 W Alameda, 8th floor east
Tucson, AZ 85701

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

Marsh USA Inc.

© 1988-2016 ACORD CORPORATION. All rights reserved.



ADDITIONAL REMARKS SCHEDULE

AGENCY MARSH USA INC.		NAMED INSURED Caterpillar, Inc. 100 NE Adamst St Peoria, IL 61629	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

STATES CONTINUED (WA7-64D-004320-012):
AL, AR, AZ, CA, CO, CT, DC, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MS, MT, NC, NE, NH, NM, NV, NY, OK, OR, PA, RI, SC, SD, TX, UT, VA, VT, WV

Includes Other states Coverage (except Monopolistic States) and U.S. Longshore & Harbor Workers.



EMPISOU-01

MMORIN

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/28/2022

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 ARNETT INSURANCE SERVICES, LLC 3850 E BASELINE RD #106 MESA, AZ 85206	CONTACT NAME: PHONE (A/C, No, Ext): (480) 830-7400 FAX (A/C, No): (480) 830-7404 E-MAIL ADDRESS: mmorin@arnettins.com
	INSURER(S) AFFORDING COVERAGE INSURER A: Liberty Mutual Fire Insurance Company INSURER B: Liberty Mutual Insurance Corporation INSURER C: Liberty Insurance Corporation INSURER D: INSURER E: INSURER F:
INSURED Empire Southwest, LLC 1725 S Country Club Dr Mesa, AZ 85210	NAIC # 42404

COVERAGES

CERTIFICATE NUMBER:

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 GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PROJECT ☐ LOC OTHER:	X	X	TB2661066618082	7/1/2022	7/1/2023	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 DESIGNATED LOC \$ 3,000,000	
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	X	X	AI2661066618062	7/1/2022	7/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
B	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N	A	X	WA566D066618092	7/1/2022	7/1/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
C	Garagekeepers			AV7661066618062	7/1/2022	7/1/2023	Limit	2,000,000
C	Garage Liability			AV7661066618062	7/1/2022	7/1/2023	Limit	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: RFP 212816 Heavy Equipment, Parts, Accessories, Supplies and Related Services

Certificate Holder is included as Additional Insured with regard to the General Liability and Automobile Liability per written contract or agreement. This insurance is Primary and Non-contributory. Waiver of Subrogation applies in favor of the Additional Insured. 30-Day Notice of Cancellation applies. 10-Day Notice of Cancellation for Non-payment of Premium applies.

CERTIFICATE HOLDER

CANCELLATION

City of Tucson Dept of Procurement 255 W Alameda, 6th FL Lobby Tucson, AZ 85701	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
--	---

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Any person or organization whom you have agreed to include as an additional insured under a written contract, provided such contract was executed prior to the date of loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

Name Of Person(s) Or Organization(s):
Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EARLIER NOTICE OF CANCELLATION
PROVIDED BY US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Number of Days' Notice 30

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement.)

For any statutorily permitted reason other than nonpayment of premium, the number of days required for notice of cancellation, as provided in paragraph **2.** of either the CANCELLATION Common Policy Condition or as amended by an applicable state cancellation endorsement, is increased to the number of days shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Empire Southwest, LLC

Endorsement Effective Date:

SCHEDULE

Name Of Person(s) Or Organization(s): Any person or organization whom you have agreed in writing to add as an additional insured, but only to coverage and minimum limits of insurance required by the written agreement, and in no event to exceed either the scope of coverage or the limits of insurance provided in this policy.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance Condition** in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "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 such "insured".

- B.** The following is added to the **Other Insurance Condition** in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "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 such "insured".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Empire Southwest, LLC

Endorsement Effective Date: 07/01/2022

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

Any person or organization for whom you perform work under a written contract if the contract requires you to obtain this agreement from us, but only if the contract is executed prior to the injury or damage occurring

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

Policy Number: AI2661066618062
Issued by

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT – NOTICE OF CANCELLATION, NON-RENEWAL OR MATERIAL CHANGE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

We will not cancel or non-renew this policy or make a material change to the insurance afforded by this policy until written notice of cancellation, non-renewal or material change has been mailed or delivered to those listed in the schedule below at least;

- A. 10 days before the effective date of cancellation, if we cancel for non-payment of premium; or
- B. 30 days before the effective date of the cancellation, non-renewal or material change if we cancel, non-renew or make a material change to the insurance afforded by this policy for any other reason.

Regardless of what is indicated above, the advance notice of cancellation will not be less than that provided in state law.

Schedule

Name:

Address:

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Where required by contract or written agreement prior to loss
and allowed by law.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement
Insured

Effective Policy No. WA566D066618092 Endorsement No.
Premium

Insurance Company

Countersigned by _____

WC 00 03 13
(Ed. 4-84)

Contract 212816-01

**Heavy Equipment, Parts, Accessories, Supplies
and Related Services**

Caterpillar, Inc.

**Caterpillar, Inc. and OMNIA Partners
National Cooperative Agreement**

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF CHINO VALLEY
AND
EMPIRE SOUTHWEST, LLC, DBA EMPIRE TRUCK & TRAILER

[Quote]

See the following pages.



To: Town of Chino Valley
1982 N Voss Dr. Dept 201.
Chino Valley, Arizona 86323
Attn: Matt Green
Phone: 928 636 7140
Fax:
Email: mgreen@chinoaz.net
PO #:
Issued:

Quote #: TK-86569.00
Ref: TKT40LP - Town of Chino Valley
Contact: Jim Burpee
Phone: 480 433 7653
Fax:
Email: Jim.burpee@empire-cat.com
Est. Pending
Comp.
Expires: August 07, 2024
FOB: Factory

****TKT40LP Tilt Trailer; 40,000 lbs. capacity**
11330-TKT40LP_New

11330-Base

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
11330	Open Deck	**TKT40LP Tilt Trailer; 40,000 lbs. capacity			\$43,735	\$43,735
Section Total:						\$43,735.00

11330-General

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
14535	Overall Width	102" overall width				
17866	Paint	Zinc-rich Primer				
08026	Paint	S7225 New CAT Yellow with black decals				
18508	Paint	Red & white conspicuity markings				
08569	General - Misc	DOT Inspection			\$147	\$147
Section Total:						\$147.00

11330-Tongue

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
14512	Hitch	5' Tongue, pintle eye with adjustable coupler; 15.5" - 31" Hitch Height (Loaded)				



14533	Hitch	Safety chains with hooks		
14515	Hitch	Lockable tool box		
14194	Landing Gear	25k Single 2 speed		
201552	Custom Options	201552 TKT50LP - Install POGO Stick PN 790006050 see picture attached	\$65	\$65
201554	Custom Options	201554 TKT50LP - All function controls operated from curbside of trailer in lieu of standard. Includes landing gear handle.		
201555	Custom Options	201555 TKT - Hand wire 7-pole round plug onto harness in lieu of 7 pole round plug molded into harness. Black and Brown wires both wired to Brown terminal. Black terminal left open in plug.	\$358	\$358
Section Total:				\$423.00

11330-Deck

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
13098	Deck Length	28' Overall deck (4' stationary and 24' tilt deck)				
11344	Deck Lock	Dual air deck locks operated with one switch (requires air supply)			\$1,147	\$1,147
14517	Main Deck	33" Loaded deck height				
15795	Main Deck	12" Manufactured I-beam Mainframe				
15800	Main Deck	4" Full width I-beam crossmembers 11" OC on Tilt Bed				
15785	Main Deck	7" Mill channel outer rail				
14471	Main Deck	4" Safety headboard				
09998	Main Deck	See Custom Option Below.				
14539	Main Deck	Floor plate on approach plate and fold under				
18522	Main Deck	11" fold- down approach plate and underride protection (16" ground clearance)				
11347	Decking	1-3/8" Apitong (raised)			\$1,990	\$1,990
13096	Tie Downs	6 Pair D-rings (2 stationary deck, 4 tilt deck)				
201553	Custom Options	201553 TK50LP - Move tilt valve all the way to the front of the stationary deck.			\$187	\$187



201556	Custom Options	201556 TKT50LP - Add 1" x 1" x 12'-0" long solid bar centered on top of outer rail from front of approach plate forward on both sides of trailer. Taper down 45 degree on ends.	\$764	\$764
201550	Custom Options	201550 TKT50LP - 4" Hydraulic Cushioning Cylinders ILO STD 3 1/2".	\$146	\$146
201551	Custom Options	201551 TKT50LP - (8) additional D-Rings (4 per side) see picture attached	\$310	\$310
Section Total:				\$4,544.00

11330-Suspension

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
13939	Suspensions / Axles	2 Axle, H9700 Spring suspension (TKT24/40)				
14543	Suspensions / Axles	(2) 22,500 lb. capacity axles				
14545	Axle Spacing	49" Axle spacing				
15735	Brakes	Air brakes 4S2M (12 1/4 x 7 1/2)				
15354	Wheels (inside)	6.75 x 17.5 8-hole steel disc dual wheel		4		
15354	Wheels (outside)	6.75 x 17.5 8-hole steel disc dual wheel		4		
10058	Spare Wheel	No Spare Wheel				
13969	Tires	215/75R17.5 - 16 ply		8		
10059	Spare Tires	No Spare Tire				
14759	Flaps, Mud Guards & Fenders	Mudflaps				
Section Total:						\$0.00

11330-Lights / Electrical

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
14648	Lights / Electrical	Grote LED Lights				
15755	Lights / Electrical	7 Pole round electrical plug (standard with air brakes)				



15820	Lights / Electrical	(3) taillights per side and (3) penny ID lights at the rear
18726	Lights / Electrical	Grote sealed electrical harness system

Section Total: \$0.00

11330-Miscellaneous

Item #	Category	Description	Weight (lbs)	Qty	Unit Price	Total
14481	Document Holder	Registration holder				
14206	Miscellaneous	Hold valve for tilt bed			\$587	\$587

Section Total: \$587.00

TOTALS

Total: \$49,436.00

**Omnia contract 212816 (\$3,460.52)
Discount (7%):**

Discounted Net: \$45,975.48

Inbound Freight (taxable): \$2,800.00

Arizona Sales Tax (8.3%): \$4,048.36

Document Fee: \$225.00

Deliver Fee: \$500.00

Total Unit Sale Price: \$53,548.84



THE COMPLETE TRAILER LINE MANUFACTURER

TRAIL KING INDUSTRIES, INC. LIMITED WARRANTY POLICY

WARRANTY:

Trail King Industries, Inc. warrants that trailer model: _____, Serial number: _____ (herein-after referred to as "Equipment") manufactured by Trail King Industries will be free from defects in materials and workmanship, provided that the Equipment warranted hereunder is operated by the purchaser in accordance with the practices approved by Trail King Industries with loads not exceeding the manufacturer's rated capacities and with loads that are not abrasive or corrosive in nature.

Trail King Industries' sole obligation under this warranty shall be limited to repairing or replacing, at its option, in accordance with the schedule below, any defective part of the warranted Equipment, which shall be returned to Trail King Industries' factory location or authorized service facilities and then Trail King Industries' examination shall disclose to its satisfaction to have been defective; provided, however, that the purchaser notifies the Warranty Department immediately upon identification of defect, and such defective Equipment is returned by the purchaser to a Trail King Industries location authorized by the Warranty Department of Trail King Industries with transportation and freight charges prepaid within fifteen (15) days after discovery of defective conditions.

The customer shall not be required to deliver defective Equipment to Trail King Industries if the Equipment was destroyed as a result of defect covered in this warranty and the Trail King Industries Warranty Department is reasonably satisfied that the Equipment was defective at the time of the sale.

All labor and parts warranty must be authorized by Trail King Industries Warranty Manager. Failure to do so will result in no warranty payment of any kind.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES OF MATERIAL, WORKMANSHIP, DESIGN, APPLICATION OR OTHERWISE WITH RESPECT TO ANY EQUIPMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF TRAIL KING INDUSTRIES.

Components supplied by other manufacturers shall be warranted under the following schedule:

I.	Axles, Suspensions, Landing Gear, Wheels, Rims, Hubs Hydraulic Valve Body	One Year 100%
II.	Air Lines, Springs, Air Bags, Leveling Valves, Bearings, Brake Valves, Paint, Oil Seals, Brake Drums, Shock Absorbers, Electrical, Cylinders, Hydraulic Hoses & Connections, Floor Plastic, Plastic Liners, Rubber Flashing	Six Months 100%
III.	Tires, Tubes and Engines	Warranty claims must be made directly to component suppliers
IV.	Wood Components	0%

Trail King Open Deck Series & Van Chassis (i.e. Medical Chassis)

Trail King Industries shall bear that portion of the cost of repairing or replacing the main beams, (The two beams running from front to back that both the upper coupler and the suspension are connected to) found to be defective under the following schedule: This excludes all parts that may be bolted, welded or otherwise attached to the main beams.

Year 1 - 100%	Year 2 - 75%	Year 3 - 50%	Year 4 - 25%	Year 5 - 25%
All other Trail King manufactured components	One Year 100%			

Trail King Dump Series:

Bottom Dump, Side Dump, Half Round Trailers, and Steel Tub End Dumps:	
All Trail King manufactured components	One Year 100%

(continued...)



(continued from front...)

Trail King Pneumatic Bulker Series:

All Trail King manufactured components	One Year 100%		
Frame, Struts, Vessel	Year 1 – 100%	Year 2 – 75%	Year 3 – 50%

Trail King Live Bottom Series:

The period of warranty is set forth as follows

Construction Live Bottom Trailers, 5-Star Trailers, and Advantage Ag Trailers (Continuous Belt):

I.	Gear box, Motor and Drive Shaft, and Individual Chain Strands Only				
	Year 1 – 100%	Year 2 – 75%	Year 3 – 50%	Year 4 – 25%	Year 5 – 25%
II.	Trail King manufactured components.			Year 1	100%
	This excludes all hopper sheets.			Year 2	75%

Aluminum Super Hi-Lite and Advantage Ag Trailers (Segmented Belt):

I.	Chain, Gear box, Motor and Drive shaft.	Year 1	100%
II.	Components Manufactured by Trail King.	Year 1	100%
		Year 2	75%

All other warranties, if any, extended by the makers and suppliers of component parts, accessories, or other goods included in the manufacture of Trail King Industries' Equipment will be assigned, if contractually permitted, to the purchaser. This warranty excludes such parts or accessories which are not defective, but may wear out and have to be replaced during the warranty period, including, but not limited to, light bulbs, paint, brake lining, brake drums, wood pieces and equipment that has been repaired, replaced, or altered by someone other than TRAIL KING or one of its authorized dealers. (Tire Warranties are expressly excluded from Trail King Industries' warranty herein.) Purchaser is expected to pay all repairs or replacement costs, in connection with this Agreement, including sales and other taxes immediately upon completion of work performed.

LIMITATION OF LIABILITY: Trail King Industries shall not be liable to purchaser for any incidental or consequential damages suffered by the purchaser, including, but not limited to, any commercially reasonable charges, expenses or commissions incurred in connection with effecting cover or any other reasonable expense incident to the delay or other breach of warranty by Trail King Industries, any loss of or damage to any cargo loaded or shipped in or on Equipment, loss of anticipated profits, transportation expenses due to repairs, non-operation or increased expense of operation costs of purchased or replaced equipment, claim of customers, cost of money, any loss of use of capital or revenue, or for any special damage or loss of any nature arising at any time or from any cause whatsoever.

LIMITATION OF REMEDY: In the event of Trail Kind Industries' failure to repair the Equipment subject to the warranty contained herein, the purchaser's sole and exclusive remedy against Trail King Industries shall be for the repair or replacement of any defective part or parts of Equipment subject to work or repair within the time period and manner set forth herein. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as Trail King is willing and able to repair or replace defective parts in the prescribed manner.

January 2011



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 5d
MEETING DATE: 9/10/2024
CONTACT PERSON: Erin Deskins, Town Clerk
ITEM TYPE: Consent/Minutes

AGENDA ITEM TITLE:

Consideration and possible action to approve the August 13, 2024, special meeting minutes.

STAFF RECOMMENDATION:

Approve the August 13, 2024, special meeting minutes.

ATTACHMENTS:

1.	2024 08 13 CC SP MND
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**MINUTES OF THE SPECIAL MEETING OF THE
TOWN COUNCIL OF THE TOWN OF CHINO VALLEY**

TUESDAY, AUGUST 13, 2024

6:00 PM

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

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.

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

Absent: John McCafferty

Staff Present: Town Manager Cindy Blackmore, Town Attorney Andrew McGuire - remote, Public Affairs Director Terri Denemy, Development Services Director Laurie Lineberry, Finance Director Katie Pehl, Public Works Director/Town Engineer Frank Marbury, Economic Development Manager Maggie Holmberg, Community Services Director Cyndi Thomas, Audio Visual Technician Lawrence Digges, Deputy Town Clerk Sara Burchill, Town Clerk Erin N. Deskins

2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a. Presentation from the Prescott National Forest regarding updates on the Yavapai Ranch Conservation Projects.

Heather Reading, Conservation Advisor for Land Advisors Organization, presented the following:

- Land Advisors was a commercial real estate brokerage that only sold land. It was the largest brokerage in the nation. She joined the organization because of the Yavapai Ranch Conservation Project to lead a conservation division. The brokerage had several ongoing conservation projects.
- Presented a map showing the location of Yavapai Ranch within the Verde River Basin. 75% of the ranch was within the Verde River watershed, the other 25% was in the Williams River watershed. The Yavapai Ranch area was nearly as large as the City of Phoenix.

John Kava, Bradshaw-Chino Valley Deputy District Ranger for Prescott National Forest (PNF) presented the following:

- Yavapai Ranch was a large portion of the Prescott National Forest (41,000 acres within Prescott National Forest boundaries).
- PNF had been trying to consolidate the land for 40 years with the current land owner.
- The conservation benefits included water, climate, cultural resources, etc.

- PNF had managed the land since the early 90s as one ownership.
- The Chino Valley Ranger District Landscape Assessment was completed about five years ago which would allow them to do a lot of vegetation treatment to help with restoration.

Heather Reading presented the following:

- These endeavors were part of a much larger conservation effort to protect the Upper Verde River aquifer through acquisition of conservation easements over private ranches. It was a willing buyer, willing seller, voluntary market-based approach as an alternative to groundwater regulation.
- The Yavapai Ranch owners were the first who were willing to sell a conservation easement over a portion of the ranch to participate in the aquifer protection program which led to the success of a grant award through the Farm Bill Regional Conservation Partnership Program (Upper Verde River Aquifer Protection & Resilient Grassland Conservation Strategy).
- Discussed funding and agencies involved in the conservation effort.
- The biggest threat to the aquifer was industrial scale agriculture.
- Provided a list of 41 supporters (federal, tribal, state, and local governments, nonprofits, and corporate companies) of the conservation effort. She had been told that at the federal level this was the most support that had been seen for a conservation project.
- The project was ranked #9 for United States Forest Service priorities.
- They were requesting continued support from the Town by writing a letter of support so the project could continue with the grant application.

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:

- He thanked the community for their outpouring of love, support, and help during his

family's time of need. He stated that Chino Valley was an awesome town.

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

Cindy Blackmore, Town Manager, presented the following:

- Territorial Days events would run from August 30th to September 2nd and would include a movie in the park, pancake breakfast, parade, corn dinner, car show, fireworks, Ichor Airsoft event, etc. The Town was still looking for parade entries.

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 Tom Armstrong, seconded by Councilmember Eric Granillo to approve Consent Agenda items a-h.

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

NAY: None

6 - 0 Passed – Unanimously

- a. Consideration and possible action to approve Job Order No. 1 to the Cooperative Purchasing Agreement with Fann Contracting, Inc., for the New Public Works Office Building Remodel project for \$344,700.
- b. Consideration and possible action to approve Job Order No. 2 to the Cooperative Purchasing Agreement with Fann Contracting, Inc., for the New Human Resources Office Building Remodel project for \$248,400.
- c. Consideration and possible action to authorize the Mayor to sign a letter of support for Upper Verde River Watershed-Yavapai Ranch (Phase IV) Land & Water Conservation Fund Request by Prescott National Forest.
- d. Consideration and possible action to rescind Bill Burns's appointment to the Public Safety Retirement Board.
- e. Consideration and possible action to approve the June 11, 2024, regular meeting minutes.

- f. Consideration and possible action to approve the June 25, 2024, study session, regular meeting, and special meeting minutes.
- g. Consideration and possible action to approve the July 9, 2024, study session and regular meeting minutes.
- h. Consideration and possible action to approve the July 10, 2024, study session 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 adopt Resolution No. 2024-1268, declaring and adopting the results of the 2024 Primary Election held on July 30, 2024.

Recommended Action: Adopt Resolution No. 2024-1268, declaring and adopting the results of the 2024 Primary Election held on July 30, 2024.

Erin Deskins, Town Clerk, presented the following:

- The ballot for the July 30, 2024, Primary Election included a mayor, three councilmembers, and Proposition 475.
- If approved, staff would issue certificates of election to those candidates who received sufficient votes to be declared elected.
- The Mayor-elect and Councilmembers-elect would take their Oath of Office and begin their terms of office on December 10, 2024.
- There was a reporting error by the County discovered on the morning of the Council meeting regarding the total number of ballots cast. The County had provided new canvass documents. The most recent updated numbers were reflected in the Resolution and presented to Council. Voter turnout increased to 44.79%. No outcomes were affected, and all other numbers were correctly reported.

The following individuals were elected: Tom Armstrong – Mayor, Eric Granillo – Councilmember, Larry Holt – Councilmember, and Robert Switzer – Councilmember.

MOVED by Vice-Mayor Tom Armstrong, seconded by Councilmember Annie Perkins to adopt Resolution No. 2024-1268, declaring and adopting the results of the 2024 Primary Election held on July 30, 2024.

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

NAY: None

6 - 0 Passed – Unanimously

7. EXECUTIVE SESSION

- a. An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, or salary of Cindy Blackmore, Town Manager.

Mayor Miller read an email from Councilmember McCafferty stating that he would not be able to attend tonight's meeting and requested a subsequent Executive Session.

Andrew McGuire, Town Attorney, recommended moving forward with whether or not there was a motion to move into Executive Session.

MOVED by Councilmember Annie Perkins, seconded by Councilmember Robert Schacherer to enter into Executive Session.

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

NAY: None

6 - 0 Passed – Unanimously

8. ADJOURNMENT

MOVED by Councilmember Sherri Phillips, seconded by Councilmember Annie Perkins to adjourn the meeting at 6:25 p.m.

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

NAY: None

6 - 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 Special Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 13th day of August, 2024. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2024.

Erin N. Deskins, Town Clerk

DRAFT



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 5e
MEETING DATE: 9/10/2024
CONTACT PERSON:
ITEM TYPE: Consent/Minutes

AGENDA ITEM TITLE:

Consideration and possible action to approve the August 27, 2024, special meeting minutes.

STAFF RECOMMENDATION:

Approve the August 27, 2024, special meeting minutes.

ATTACHMENTS:

1.	2024 08 27 CC SP MND
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**MINUTES OF THE SPECIAL MEETING OF THE
TOWN COUNCIL OF THE TOWN OF CHINO VALLEY
TUESDAY, AUGUST 27, 2024
10:15 AM
COUNCIL CHAMBERS | 202 N. STATE ROUTE 89 | CHINO VALLEY,
ARIZONA 86323**

1. CALL TO ORDER; ROLL CALL

Mayor Miller called the meeting to order at 11:02 a.m.

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

Absent:

Staff Present: Town Attorney Andrew McGuire, Town Attorney Susan Segal, Assistant Town Manager/HR Director Laura Kyriakakis, Public Affairs Director Terri Denemy, Public Works Director/Town Engineer Frank Marbury, Town Clerk Erin N. Deskins

2. Consideration and possible action regarding the Town Manager position and a separation and general release agreement with Cindy Blackmore.

Andrew McGuire, Town Attorney, presented the following:

- Council was provided with Ms. Blackmore's resignation letter and separation agreement.
- Town Code required that the Council appoint an Acting Town Manager for absences that would exceed 30 days. There was no time-frame given, but the agenda for this meeting provided for that action should the Council choose to do so.

MOVED by Vice-Mayor Tom Armstrong, seconded by Councilmember Robert Schacherer to accept the resignation, approve the separation agreement, and authorize the Mayor to sign.

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

NAY: Mayor Jack Miller, Councilmember Sherri Phillips

5 - 2 Passed

Council and staff discussed the following:

- Council inquired if there was a difference between "Acting" and "Interim."
 - Staff stated their functions were the same. Town Code specified "Acting."
- Vice-Mayor Armstrong and Councilmember Perkins expressed a desire for Terri

- Denemy to be appointed to that position.
- Councilmember Granillo inquired if Ms. Denemy would be interested in the position.
 - Ms. Denemy stated that she would be interested in serving in that role.

MOVED by Councilmember John McCafferty, seconded by Councilmember Eric Granillo to approve Terri Denemy to serve as the Acting Town Manager until one is formally hired.

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

NAY: Mayor Jack Miller

6 - 1 Passed

Council and staff discussed the logistics of Ms. Denemy moving into the Acting Town Manager role, and adding the recruitment and hiring process to the next council meeting agenda.

3. ADJOURNMENT

MOVED by Councilmember Sherri Phillips, seconded by Councilmember Eric Granillo to adjourn the meeting at 11:11 a.m.

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

NAY: None

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 Special Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 27th day of August, 2024. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2024.

Erin N. Deskins, Town Clerk

DRAFT



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6a
MEETING DATE: 9/10/2024
CONTACT PERSON: Will Dingee, Assistant Development Services Director
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve Ordinance No. 2024-945, to rezone approximately 1.5 acres of vacant land located at 3381 N State Route 89 from Commercial Light/Agricultural Residential, 5-acre minimum (CL/AR-5), to Commercial Heavy (CH).

SUMMARY:

This is a request by Bill Villani, on behalf of Lazar-Villani Living Trust, for a Rezone of approximately 1.5 acres of vacant land from Commercial Light/ Agricultural Residential, minimum 5 acres (CL/AR-5) to Commercial Heavy (CH) in order to expand the existing family owned and operated business, Rustic Ironwerks.

PREVIOUS ACTION:

On August 6, 2024, the Planning and Zoning Commission forwarded a recommendation of APPROVAL to the Town Council with a vote of 6-0. For dialog, please see the attached Planning and Zoning Hearing Minutes.

STAFF RECOMMENDATION:

i) Hold a Public Hearing ii) Approve Ordinance No. 2024-945

FISCAL IMPACT?

N/A

ATTACHMENTS:

1.	Attachment 1 - ORD 2024-945
2.	Attachment 2 - Rustic Ironwerks P&Z Minutes
3.	Attachement 3 - P&Z Staff Report

When recorded, return to:
Town Clerk
Town of Chino Valley
202 N. State Route 89
Chino Valley, Arizona 86323

ORDINANCE NO. 2024-945

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 GENERALLY LOCATED AT THE NORTH SIDE OF EAST ROAD 2 NORTH, FROM CL/AR-5 (COMMERCIAL LIGHT / AGRICULTURAL RESIDENTIAL, 5-ACRE MINIMUM), TO CH (COMMERCIAL HEAVY).

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 No. 306-04-031) located at 3381 N State Route 89, 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/Agricultural Residential, 5-acre minimum ("CL/AR-5"), to Commercial Heavy ("CH") (the "Zoning Map Amendment"); and

WHEREAS, the Town Council has determined that this Zoning Map Amendment is in conformance with the Make it Chino! 2040 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 (ZC-2024-03); 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 a housing impact statement in accordance with A.R.S. 9-462.01.

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 CL/AR-5 to CH, subject

to the requirements of the Chino Valley Town Code ("Town Code"), the UDO, and the following stipulations:

1. The property owner shall comply with all conditions, codes, rules, fees, and regulations applicable to this action.
2. The applicant shall agree that the rezone classification to Commercial Heavy (CH) is contingent upon the adequate recordation of the parcel combination or lot line adjustment within one year of rezone approval.

SECTION 3. Per A.R.S. § 9-462.01(E), if the property owner does not produce evidence of compliance with the above stipulations, the Town Council may take legislative action to revert the properties' zoning to the prior zoning classification, CL/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 10th day of September 2024.

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 that the above foregoing Ordinance No. 2024-945 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on September 10, 2024, and that quorum was present, and that the vote thereon was ____ ayes and ____ abstentions. ____ Council members were absent or excused.

Erin N. Deskins, Town Clerk

EXHIBIT 1
TO
ORDINANCE 2024-945

[Property Description]

All that portion of Section 3, Township 16 North, Range 2 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

Beginning at a General Land Office Brass Capped Pipe Monument on the East line of Section 3 marked one-quarter corner, said corner is 44.74 feet southerly of record location;

Thence South 00 degrees 58 minutes 30 seconds East, 1,364.26 feet along the section line to a point 1,409.00 feet Northerly of a one and one-fourth inch iron pipe marking the Southeast corner of Section 3;

Thence South 89 degrees 58 minutes 10 seconds West, 1083.17 feet to a one-half inch rebar on the Easterly right-of-way of U.S. Highway 89;

Thence North 05 degrees 54 minutes 46 seconds East along right-of-way 393.56 feet to a one-half inch rebar and the TRUE POINT OF BEGINNING;

Thence North 05 degrees 54 minutes 46 seconds East, 172.76 feet to a one-half inch rebar;

Thence South 86 degrees 30 minutes East, 335.60 feet to a one-half inch rebar;

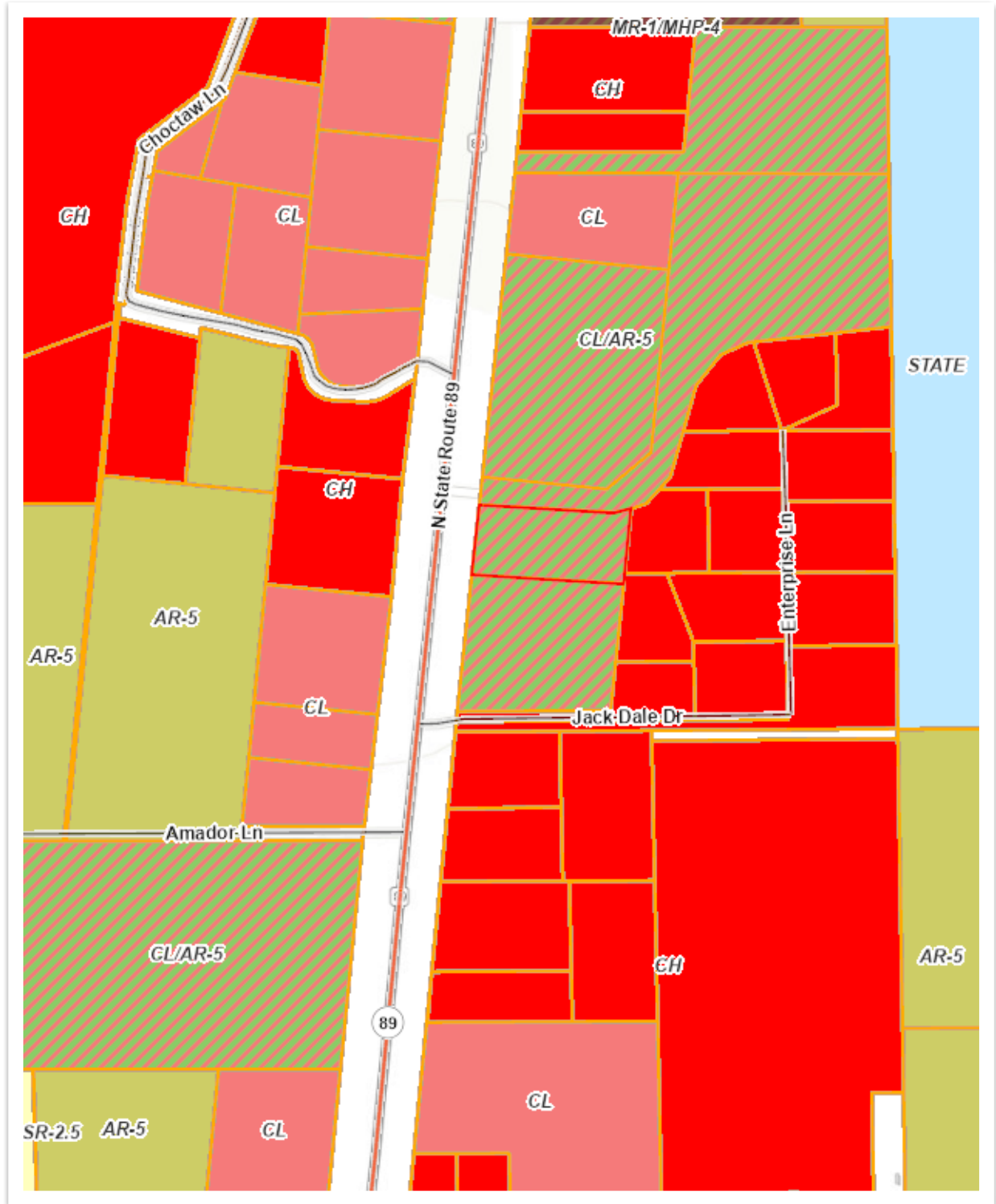
Thence North 79 degrees 25 minutes East 43.80 feet to a one-half inch rebar;

Thence South 06 degrees 08 minutes 15 seconds West, 183.46 feet to a one-half inch rebar;

Thence North 86 degrees 30 minutes West, 376.91 feet to the TRUE POINT OF BEGINNING.

EXHIBIT 2
TO
ORDINANCE 2024-945

[Zoning Map]



PUBLIC HEARING #D.1 – Case # ZC-2024-03 — This is a request by Bill Villani, on behalf of Lazar-Villani Living Trust, for a rezone of approximately 1.5 acres of vacant land from Commercial Light/Agricultural Residential, minimum 5 acres (CL/AR-5) to Commercial Heavy (CH). The property is located at 3381 N State Route 89, Chino Valley, Arizona.

Chair Merritt stated that he knew the applicant, recused himself, and turned the hearing over to **Vice-Chair Pasciak**, as he left the chambers.

Vice-Chair Pasciak asked if anyone on the Commission had a disclosure to declare regarding this project. There were none.

Senior Planner **Jessica Barragan** presented the staff report and recommended approval.

Vice-Chair Pasciak asked if anyone had questions for staff. There were none.

Bill Villani – The applicant stated that he did not have anything else to add and would be available for questions.

Vice-Chair Pasciak asked if Commission had any questions for the applicant. There were none.

Vice-Chair Pasciak opened the meeting for public comments. There were none.

Vice-Chair Pasciak closed the public hearing.

Motion was made by Meadors, seconded by Switzer to approve ZC-2024-03, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A. A vote was taken, and the motion passed with a 6-0 vote (with Merritt recusing). Merritt returned to the chambers.



TOWN OF CHINO VALLEY
Planning Commission Staff Report
August 6, 2024
File Number ZC-2024-03
Rezone

PROJECT DESCRIPTION

This is a request by Bill Villani, on behalf of Lazar-Villani Living Trust, for a Rezone of approximately 1.5 acres of vacant land from Commercial Light/ Agricultural Residential, minimum 5 acres (CL/AR-5) to Commercial Heavy (CH). The property is located at 3381 N State Route 89, Chino Valley, Arizona.

LOCATION DATA

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)	Vacant	"LI" – Light Industrial
North	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)	Vacant	"LI" – Light Industrial
South	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)	Vacant	"LI" – Light Industrial
East	"CH" – Commercial Heavy	Rustic Ironwerks	"LI" – Light Industrial
West	"CH" – Commercial Heavy	Drill-Tech Inc	"LI" – Light Industrial

LOCATION MAP



PRIOR SITE ACTIONS: Code Enforcement
None

Land Action
None

Land Division History
None

STAFF RECOMMENDATION: Staff recommends that the Planning and Zoning Commission forward to the Town Council a recommendation of **APPROVAL** for the Rezone with Conditions of Approval found in Attachment A.

SUGGESTED MOTION: Move to **APPROVE** Zone Change ZC-2024-03 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 Zone Change, the Planning and Zoning Commission is recommending approval to Town Council for the Rezone of approximately 1.5 acres of vacant land from Commercial Light/ Agricultural Residential, minimum 5 acres (CL/AR-5) to Commercial Heavy (CH) for the property located at 3381 N State Route 89, subject to the staff report and information provided during this hearing, and affirmatively finds that the request is in conformance with the 2040 General Plan.

Staff Analysis:

This is a request by Bill Villani, the owner and applicant of the subject property, for the rezone of approximately 1.5 acres of vacant land currently zoned CL/AR-5. The applicant desires to expand the existing family owned and operated facility (Rustic Ironwerks), as they are outgrowing their current facility (directly east) at 3342 Enterprise Lane. Though the land itself will remain undeveloped for the time being, in order to expand they will need to undergo a lot line adjustment, which requires a rezone on the addition to the parcel. Therefore, the applicant is requested to rezone his property to "CH" Commercial Heavy. This is a reasonable request which allows the owner/applicant the opportunity to expand their current business operations. The 2040 General Plan approved by the voters in November of 2023, designates this area for Light Industrial. Many of the listed uses in the Heavy Commercial zoning district should actually be listed in the Light Industrial zoning district. This will be corrected with the update of the zoning code which begins this fall. In the General Plan, the "Land Use Balance Matrix" determines if an amendment to allow Commercial Heavy district requires a general plan amendment, as the requested change is less than 10 acres and is also adjacent to compatible land uses, a General Plan Amendment is not required. A rezone is the minimum necessary action to allow the owner reasonable use of the property and to achieve consistency in uses.

Zoning

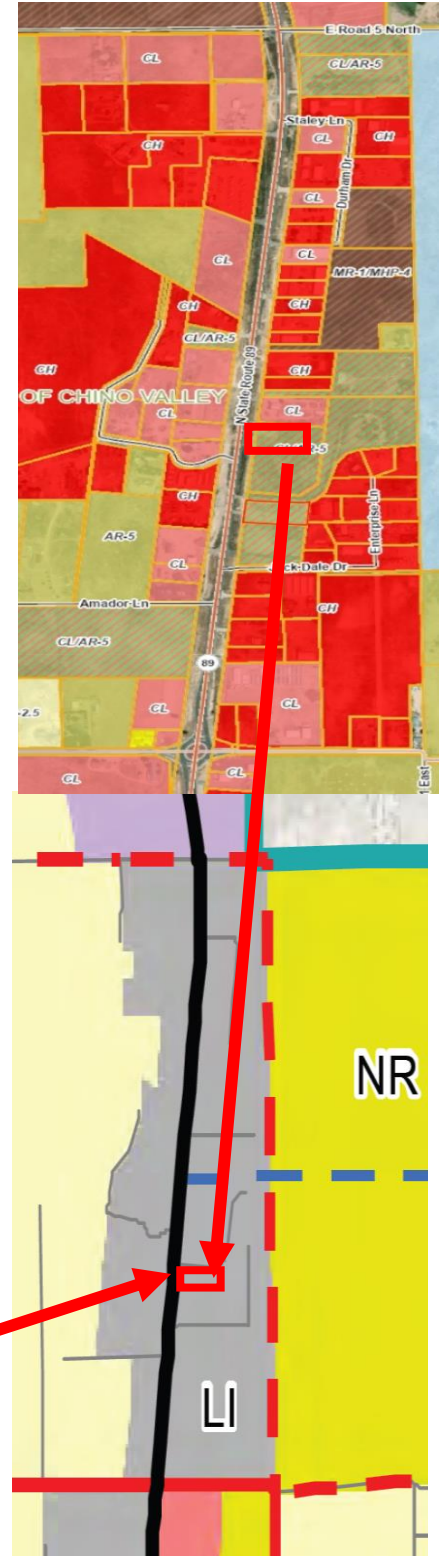
The subject property is currently zoned Commercial Light/ Agricultural Residential, minimum 5 acres (CL/AR-5). The current zoning classification of the AR-5 is not consistent with the 2040 general plan and the surrounding land uses.

General Plan

The General Plan assigns the subject property the Light Industrial land use. The only viable option for the applicant to utilize the property reasonably for its current and intended purposes is through rezoning. This process will align the parcel's zoning district classification with the General Plan requirements, thereby fulfilling the intended objective.

Light Industrial (LI)	N/A	This is an employment category in Chino Valley and includes clean industrial uses, typically lower-impact and limited-scale indoor industrial uses such as light fabrication, assembly, light manufacturing, contractors' offices, custom fabrication/assembly, small-scale machine shops, indoor self-storage, outdoor storage of materials, vehicle repair, operable vehicle/equipment storage research and development, and data centers. The use intensity is low to moderate. It is primarily located along the proposed Great Western Connector road to take advantage of convenient access to regional highways, Perkinsville Road, and Prescott Airport. Uses within this category are compatible with and not impacted by airport operations. No primary materials fabrication, smelting, food production, rendering, or production of flammable, explosive, or other hazardous materials is permitted. All outdoor areas are required to be fully screened from public view and residential areas, and they must be located in the rear portions of properties.	BP PL
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Plan Amendment Based on Mix of Uses				
Land Use Category	Result of Requested Change	Amendment Not Required	Minor Amendment Required	Major Amendment Required
Neighborhood Commercial (NC)	Loss of less than 5 acres and adjacent to compatible land use	✓		
	Loss of 5 acres to 15 acres and adjacent to compatible land use		!	
	Loss of more than 15 acres of Neighborhood Commercial			!!
Regional Commercial (RC)	Loss of less than 5 acres and adjacent to compatible land use	✓		
	Loss of 5 acres to 25 acres and adjacent to compatible land use		!	
	Loss of more than 25 acres of Regional Commercial			!!
Horizontal Multi-Use (HMU) 8 du/acre	Loss or increase of less than 10 acres and adjacent to compatible land use	✓		
	Loss or increase of 10 acres to 20 acres and adjacent to compatible land use		!	
	Loss or increase of more than 20 acres of Horizontal Multi-Use			!!
Light Industrial (LI)	Loss of less than 10 acres and adjacent to compatible land use	✓		
	Loss of 10 acres to 30 acres and adjacent to compatible land use		!	
	Loss of more than 30 acres of Light Industrial			!!



PUBLIC COMMENTS RECEIVED: None Received

EXTERNAL AGENCY COMMENTS: No Comments

NEIGHBORHOOD MEETING COMMENTS: Staff notified the surrounding property owners within 750' radius of the date and location of the Planning and Zoning Commission Meeting and Town Council Meeting by postcard on July 11th, 2024. See Attachment C

PROPOSED CONDITIONS DELIVERED TO APPLICANT ON: July 12, 2024

X	Applicant agreed with all of the conditions of approval on (7/12/2024)
	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
Conditions of Approval	External Agency Comments	Neighborhood Meeting Comments	Site Plan & Exhibits	Staff Research

PREPARED BY:

DATE:

JESSICA BARRAGAN – SENIOR PLANNER
JBARRAGAN@CHINOAZ.NET
928-636-3473

7/9/2024

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, 928 636-4427- x1217

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.

Development Services Comments: Jessica Barragan, Senior Planner, 928-636-3473

3. The applicant shall agree that the rezone classification to Commercial Heavy (CH) is contingent upon the adequate recordation of the parcel combination within one (1) year of rezone approval.

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
EXTERNAL AGENCY COMMENTS

STAFF RECEIVED NO COMMENTS FROM EXTERNAL AGENCIES.

ATTACHMENT C
NEIGHBORHOOD MEETING COMMENTS

DATE MEETING HELD: JULY 3, 2024

LOCATION: ON SITE – 3342 ENTERPRISE LN

ATTENDEES:

PROPERTY OWNERS: BILL VILLANI & RONNI LAZER

AGENT/ARCHITECT: KEN MOHN

TOWN STAFF: JESSICA BARRAGAN, SENIOR PLANNER

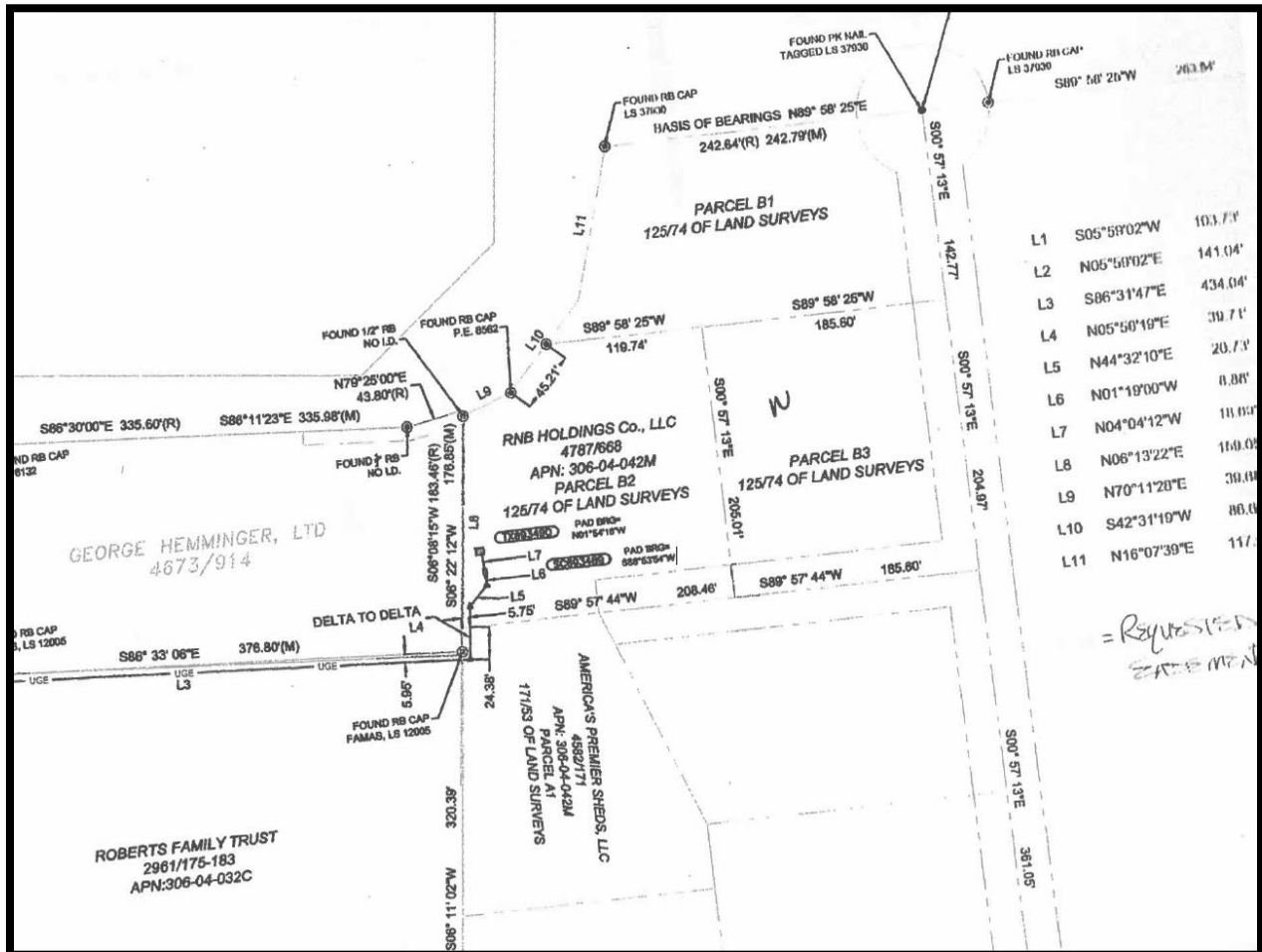
NEIGHBORS IN ATTENDANCE (4)

SUMMARY OF ATTENDEE(S') COMMENTS RELATED TO THE PROJECT:

There were no concerns expressed by the neighbors pertaining to the subject rezone. The only comments made were site specific to the neighbors' property and their intentions to split. However, staff reiterated that they could go thru the same process. Staff provided the pre-application documents along with general information to the inquiring neighbor.

ATTACHMENT D SITE PLAN AND EXHIBITS

Draft Survey provided by applicant



ATTACHMENT E

STAFF RESEARCH



STAFF RESEARCH – RUSTIC IRONWERKS

CASE #: ZC-2024-03

CASE PLANNER: JESSICA BARRAGAN

PROJECT NARRATIVE: This is a request by Bill Villani, on behalf of Lazar-Villani Living Trust, for a Rezone of approximately 1.5 acres of vacant land from Commercial Light/ Agricultural Residential, minimum 5 acres (CL/AR-5) to Commercial Heavy (CH). The property is located at 3381 N State Route 89, Chino Valley, Arizona.

I. PROJECT DATA

Project Location:	3381 N State Route 89				
Parcel Number(s):	306-04-031				
Parcel Size(s):	65,340 sf				
Total Acreage:	1.5 acres				
Proposed Dwelling Units:	0				
Address:	3381 N State Route 89				
Applicant:	Bill Villani				
Applicant's Agent:	Bill Villani				
Conforms to G.P. Land Use Conformity Matrix:	Yes		No	X	Rezoning for conformity
Zoning Overlay	PAD	N/A			
Within ½ Mile of SR89?	Yes	X	No		If yes, Property is restricted – site-built only

	Existing Zoning	Use(s) on-site		General Plan Designation
Site	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)	Vacant		"LI" – Light Industrial
North	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)	Vacant		"LI" – Light Industrial
South	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)	Vacant		"LI" – Light Industrial
East	"CH" – Commercial Heavy	Rustic Ironwerks		"LI" – Light Industrial
West	"CH" – Commercial Heavy	Drill-Tech Inc		"LI" – Light Industrial

Prior Cases or Related Actions:	PA-2023-047, PA-2024-14				
Type	Cases, Actions or Agreements				
Pre-Annexation Agreement	Yes		No	X	N/A
Annexation	Yes	X	No		September 21, 1970 - Original Town
General Plan Amendment	Yes		No	X	N/A
Development Agreement	Yes		No	X	N/A
Rezone	Yes		No	X	N/A
Subdivision	Yes		No	X	N/A
Conditional Use Permit	Yes		No	X	N/A
Pre-Application Meeting	Yes	X	No		May 1, 2024 - (PA-2024-14)
Enforcement Actions	Yes		No	X	N/A
Land Division Status:	Yes		No	X	
Irrigation District:	N/A				

Staff Research - Rezone Case # ZC-2024-03

Case #ZC-2024-03
August 6, 2024
Page 9 of 11

ATTACHMENT E STAFF RESEARCH

II. TOWN OF CHINO VALLEY GENERAL PLAN

Land Use Element:						
Land Use Designation:	"CL/AR-5" -Commercial Light/ Agricultural Residential (5-Acre Minimum)					
Is Project larger than 25 AC or 50 d.u.?	L.U. Policy 2.1	N/A	PRN Policy 2.8	N/A		
Issues:	None					
Circulation Element:						
Road Classification	State Highway	Existing Row	Y	Required Row	Y	
Issues:	None					
Parks, Recreation, and Natural Resources Element:						
Closest Park:	Community Center Park					
Within 1 mile of the Peavine Trail?	N/A					
Flooding?	FEMA Flood Plain Designation	N/A	Town Flood Map	N/A		
Issues:	No					
Community Services and Facilities Element:						
Water Source:	Town	Well	x	Prescott	Private System:	
Sewer:	Town	Septic	x			
Issues:	None					
Economic Development Element:						
SR-89 Corridor?	Yes	Enhancement: Goal ED-6	N/A			
Old Home Manor?	No	Goal ED-2	N/A			
Issues:	None					

NOTIFICATION

- **Legal Ad Published:** (07/09/2024)
- **(750 FEET)' Vicinity Mailing:** (06/17/2024)
- **Reviewing Agencies Noticed:** (06/18/2024)
- **Neighborhood Meeting:** (07/03/2024)
- **Hearing Dates:** (PZ on 08/06/2024) & (TC on 09/10/2024)
- **Comments Due:** (7/5/2024)

<i>External List (Comments)</i>	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Samantha Alvarez – APS	X	6/24/24	X		
Richard Perez - A.D.O.T.	X	6/20/24	X		
Ralph Baker – C.V.I.D.	X	6/20/24	X		
Darrell Tirpak - CAFMA	X	7/1/24	X		
Suzanne Ehrlich – YC ENV	X	6/20/24	X		
Monica Kriner – YC Health	X	6/20/24	X		
SparkLight Cable					
LUMEN (Previously Centurylink)					
<i>External List (Comments)</i>	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Unisource Gas					
CVUSD					
United States Postal Service					
Mark Holmes – Water Advisor					

ATTACHMENT E

STAFF RESEARCH

<i>Town of Chino Valley Internal List (Conditions)</i>	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Jessica Barragan – Senior Planner – Development Services	X	7/1/24		X	X
Will Dingee – Assistant Director – Development Services					
Laurie Lineberry – Director – Development Services	X	7/1/24		X	X
Frank Marbury – Engineer/ Public Works Director					
Steve Sullivan – Assistant Engineer – Public Works	X	6/20/24	X		
Dan Trout – Chief Building Official – Development Services	X	6/20/24	X		
Frank Snowney or Keith Hurtt – Code Enforcement – Development Services					
Chuck Winn – Chief of Police - Police					



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6b
MEETING DATE: 9/10/2024
CONTACT PERSON: Will Dingee, Assistant Development Services Director
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve Ordinance No. 2024-946, to rezone approximately 10 acres of land located on the north side of East Road 2 North, between Peppertree Place and James Drive, from Agricultural Residential, 5-Acre Minimum (AR-5), to Single Family Residential, 12,000 square foot minimum (SF-12,000).

SUMMARY:

This is a request by Augustin Baugier, on behalf of Meadowview North LLC, for a rezone of approximately 10 acres of land from Agricultural Residential, minimum 5 acres (AR-5) to Single Family Residential, minimum 12,000 square feet (SF-12,000). The applicant intends to construct a 23-lot subdivision of manufactured homes with attached site-built garages, multi-use paths at the north and south of community access points and vehicular through access via Merrit. The community is named Meadowview North, which will offer water-efficient landscape and irrigation practices. The project is proposed to be completed in one phase, including multi-use paths, curb, gutters, sidewalks, pavement improvements along Merrit Lane, 2 detention basins, and will be served by Town of Chino Valley water and sewer infrastructure. If the rezoning is approved, the project will return for Council consideration for Preliminary Plat Approval.

PREVIOUS ACTION:

On August 6, 2024, the Planning and Zoning Commission forwarded a recommendation of APPROVAL to Town Council with a vote of 7-0. For dialog, please see the attached Planning and Zoning Hearing Minutes.

STAFF RECOMMENDATION:

i) Hold a Public Hearing ii) Approve Ordinance No. 2024-946

FISCAL IMPACT?

N/A

ATTACHMENTS:

1.	Attachment 1 - ORD 2024-946
2.	Attachment 2 - P&Z Meeting Minutes
3.	Attachment 3 - P&Z Staff Report

When recorded, return to:

Town Clerk
Town of Chino Valley
202 N. State Route 89
Chino Valley, Arizona 86323

ORDINANCE NO. 2024-946

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 10 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTH SIDE OF EAST ROAD 2 NORTH, FROM AR-5 (AGRICULTURAL RESIDENTIAL, 5-ACRE MINIMUM) TO SF-12,000 (SINGLE FAMILY RESIDENTIAL, 12,000 SQUARE FOOT MINIMUM).

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 10 acres of real property (Yavapai County Assessor Parcel Nos. 306-18-017C and 306-18-017D) generally located at the North Side of East Road 2 North, 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, 12,000 Square Foot Minimum ("SF-12,000") (the "Zoning Map Amendment"); and

WHEREAS, the Town Council has determined that this Zoning Map Amendment is in conformance with the Make it Chino! 2040 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 (ZC-2024-04); 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 a housing impact statement in accordance with A.R.S. 9-462.01.

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 10 acres, as described in Exhibit

1 and shown on the Zoning Map in Exhibit 2, to rezone the property from AR-5 to SF-12,000, subject to the requirements of the Chino Valley Town Code ("Town Code"), the UDO, and the following stipulations:

1. The property owner shall comply with all conditions, codes, rules, fees, and regulations applicable to this action.
2. The developer shall connect the subdivision to the Town's public water system per Town Code § 51.075. The developer shall construct a new minimum 12" water main between North Road 1 East and the eastern property line of 306-18-017D.
3. The developer shall connect the subdivision to the Town's public wastewater system per Town Code § 51.155. The Town has an existing 12" sewer main in East Road 2 North.
4. Legal access to Road 2 North will be provided by that certain easement for the dedication of Road 2 North recorded on January 30, 2002, at Book 3897, Page 423, Records of Yavapai County, Arizona, Yavapai County Recorder's No. 3426062 (the "Road 2 North Easement"). To the fullest extent permitted by law, the owner agrees to 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"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon owner's access to Road 2 North via the Road 2 North Easement or any improvements constructed in the easement by the owner.
5. The developer shall dedicate right-of-way per UDO § 5.3.2 as follows:
 - a. East Road 2 North: 30' north of the southern line of section 14, equating to a total East Road 2 North right-of-way of 80'.
 - b. East Road 2 North and the Subdivision's Front Entrance: 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.
 - c. Merritt Lane: The northern 25' of the subdivision, equating to a total Merritt Lane right-of-way of 50'.
 - d. Merritt Lane and the Subdivision's Rear Entrance: At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of 25 feet for local streets.
 - e. Internal Streets: Minimum right-of-way width is 50'. At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of 25 feet for local streets.
6. The developer shall construct the half-width improvements on East Road 2 North along the subdivision's frontage per the Town's Urban and Rural Roadways map as follows:

- a. The improvements shall include, at a minimum, a 10' concrete multi-use path, required landscaping, 6" concrete curb and gutter, and asphalt road half-width improvements to include a 12' thru lane and half of a 14' two-way left turn lane.
7. The developer shall construct the following onsite improvements per UDO § 5.3.2:
 - a. Internal Streets: Per Urban Local Road standards, that includes 24' asphalt minimum roadway width without on-street parking, rolled concrete curb, and 5' minimum concrete sidewalk on one side.
8. The developer shall align the proposed Meadowview Ct with the existing Tumbleweed Dr to the south.
9. The developer shall construct a full-width, minimum 2" asphalt overlay on Merritt Lan between the northerly EC/BC of Bucky Oneil Dr and the eastern property line of 306-18-017D.
10. The developer shall, except as exempted in Town Code § 150.082, underground all existing and new utility and telephone lines, electric utility distribution lines, cable television lines, and all other communication and utility lines in accordance with Town Code § 150.081 at the time of development of the property as part of the required off-site and on-site improvements. The developer shall be responsible for the costs of the underground construction in accordance with the underground policy of the serving utility.

SECTION 3. Per A.R.S. § 9-462.01(E), if the property owner does not produce evidence of compliance with the above stipulations or if construction does not commence within four years of this approval, the Town Council may take legislative action to revert the properties' zoning to the prior zoning classification, 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.

(SIGNATURES FOLLOW)

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 10th day of September 2024.

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 that the above foregoing Ordinance No. 2024-946 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on September 10, 2024, and that quorum was present, and that the vote thereon was ____ ayes and ____ abstentions. ____ Council members were absent or excused.

Erin N. Deskins, Town Clerk

EXHIBIT 1
TO
ORDINANCE 2024-946

[Property Descriptions]

PARCEL I:

All that portion of Tract 52, Section 14, Township 16 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

COMMENCING at the Southwest corner of said Tract 52;

Thence North 00°03'27" West, along the West line of said tract, a distance of 25.00 feet to THE POINT OF BEGINNING;

Thence South 89°59'40" East (basis), along a line that is 25.00 feet North of, and running parallel with the South line of said tract, a distance of 268.02 feet;

Thence North 00°03'27" West, a distance of 812.67 feet to a point on the South line of CHINO MEADOWS, Unit 1, as recorded in Book 9 of Maps and Plats, Page 65 of the Yavapai County Recorder's Office;

Thence South 89°59'57" West, along said South line, a distance of 268.02 feet to a point on the West line of said tract;

Thence South 00°03'27" East, along said West line, a distance of 812.64 feet to THE POINT OF BEGINNING.

PARCEL II:

All that portion of Tract 52, Section 14, Township 16 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

COMMENCING at the Southwest corner of said Tract 52;

Thence North 00°03'27" West, along the West line of said tract, a distance of 25.00 feet;

Thence South 89°59'40" East (basis), along a line that is 25.00 feet North of, and running parallel with the South line of said tract, a distance of 268.02 feet to THE POINT OF BEGINNING;

Thence continuing South 89°59'40" East, a distance of 268.01 feet;

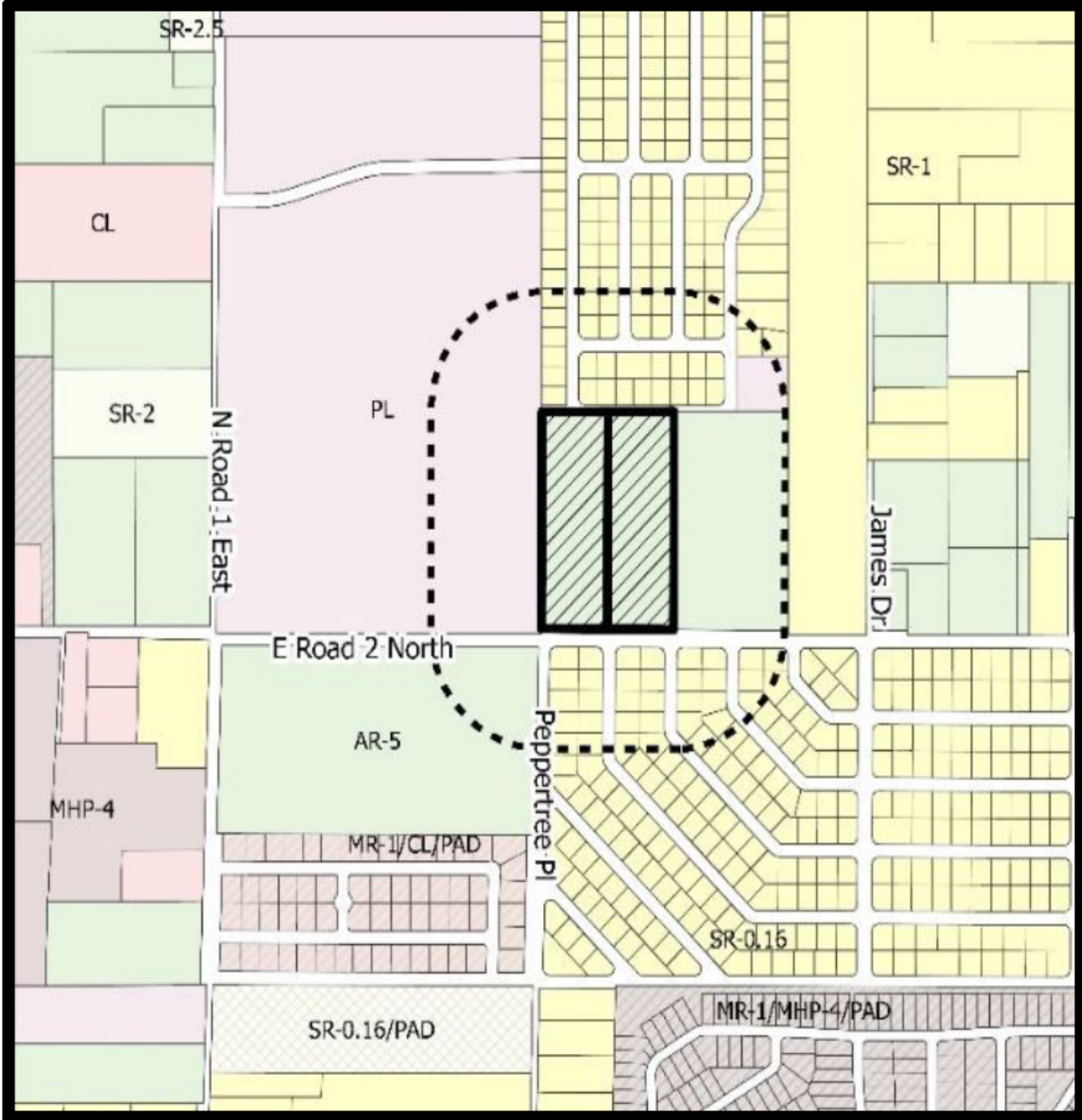
Thence North 00°03'27" West, a distance of 812.70 feet to a point on the South line of CHINO MEADOWS, Unit 1, as recorded in Book 9 of Maps and Plats, Page 65 of the Yavapai County Recorder's Office;

Thence South 89°59'57" West, along said South line, a distance of 268.01 feet;

Thence South 00°03'27" East, a distance of 812.67 feet to THE POINT OF BEGINNING.

EXHIBIT 2
TO
ORDINANCE 2024-946

[Zoning Map]



PUBLIC HEARING #D.2 – Case # ZC-2024-04 – This is a request by Augustin Baugier, on behalf of Meadowview North LLC, for a rezone of approximately 10 acres of land from Agricultural Residential, minimum 5 acres (AR-5) to Single Family Residential, minimum 12,000 square feet (SF-12,000). The property is located on the north side of E. Road 2 North, between Peppertree Place and James Drive, Chino Valley, Arizona. APN: 306-18-017C and 306-18-017D

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. **Merritt** stated that he had discussed it with **Switzer** wondering why the Commission was hearing the case again.

Senior Planner **Jessica Barragan** presented the staff report and recommended approval.

Merritt asked if anyone had questions for Town staff.

Penn asked if the applicant would be connecting to Town water and sewer.

Barragan replied yes.

Switzer asked if the applicant would be widening Road 2 North.

Barragan responded that the Conditions of Approval stated that there would be some widening of Road 2 North and the plans would be presented at the preliminary plat stage.

Meadors asked about Condition 11 and observed major power lines going through the area, and asked if the applicant would be moving the power lines or putting them underground.

Barragan replied that the applicant would be working with APS to determine what would be needed to be done with the power lines and that APS' recommendation and conclusion would be presented at the preliminary plat stage.

Switzer asked if the land to the West of the subject property was a City of Prescott well facility.

Dingee stated that there was a City of Prescott small utility well house on the property directly to the North including vacant land owned by the City of Prescott, which was zoned public land.

Augustin Baugier - the applicant stated that he had nothing further to add and was available for questions.

Merritt asked if the Commission had any questions for the applicant.

Switzer stated that one of the concerns from the neighbors was if there would be an HOA for maintaining open spaces and landscaping and asked if the applicant had any plans for facilities in the retention basins and would they be open or fenced.

Baugier replied yes, there would be an HOA and they had no plans for facilities in the basins, and that they would be open.

Switzer asked if the HOA would include road maintenance and stated he would like to see the HOA include road maintenance inside the subdivision.

Baugier replied that the plan would be for the roads inside the subdivision to be made public roads.

Pasciak stated a point of order that the Commission cannot require an HOA to maintain roads.

Switzer replied that the developer could require the HOA to maintain the roads.

Pasciak stated it would then need to be a private road.

Switzer agreed.

Merritt stated that when the Town dedicated a road it must meet the Town standards. He asked if there would be a way for the developer to be responsible for the maintenance of the roads inside the subdivision.

Dingee replied that it would be a question for the Public Works Department during the preliminary plat stage.

Meadors asked the brand of mobile home the developer and the starting price for homes.

Baugier replied they typically used Cavco or Fleetwood. They hoped the price would start in the 300,000 range and be affordable.

Meadors asked when the developer planned on starting the project if it passed.

Baugier replied that if it passed and they could get through Final Plat by January or February, they would start right away.

Switzer asked if there was a sunset clause in the Conditions of Approval and stated he would like to see a sunset clause in the Conditions of Approval and asked what a reasonable timeframe would be.

Dingee replied that Staff did not recommend one because the project conformed to the Town General Plan, however the Commission could include one if they chose.

Baugier replied they would agree to whatever is recommended.

The Commission agreed on a 4-year time limit for the rezone.

Meadors asked about the improvements to Merritt Lane.

Dingee showed a slide of the Conditions of Approval, and replied the improvement was 25', with a total of 50' for the right-of-way.

Merritt stated it would be decided in final plat and that all roads would meet civil engineer specifications.

Switzer asked if the developer planned low water use landscaping.

Baugier replied yes, most likely front yards would be gravel and not too many plants, but with HOA rules on types of plants.

Penn asked if the open space would benefit people, with a playground for kids or places to walk dogs.

Baugier showed a slide of the walking path and sidewalk, which would include benches, pet disposal station, and promote pedestrian circulation. The had no plans for open parks.

Chair Merritt opened the meeting for public comments.

Mark Stokes stated he was new to Chino Valley and lived on Tumbleweed. He was concerned with the groundwater and flooding. He asked if the collection ponds would be adequate for the water run-off. He stated the water pressure in his house was low.

Andi Strange stated she was concerned that the construction would close off the access to Safeway and Route 89 and was concerned with the traffic it would cause, and asked if the developer was widening only in front of the subdivision.

Merritt stated the developer would only be required to widen one side of the road in front of the area to be developed.

Strange asked how many homes were planned.

Meadors replied 23.

Strange reiterated that the roads were very narrow, and she was concerned about traffic detours during

construction that could last two to five years.

Chair Merritt closed the public hearing.

Merritt asked the Staff to talk about the drainage issue.

Barragan stated the drainage concerns would be addressed during the Final Plat stage. The applicant had been working with the Town Staff, and a detention basin had been added to the plan.

Merritt stated that for any new subdivision, all drainage, roads and infrastructure are designed by a licensed civil engineer and approved by the Town engineer.

Dingee stated correct, water comes in and leaves at the traditional spot and at the traditional capacity.

Meadors questioned the drainage flow of water on the site, noting a low point at Road 2 North.

Baugier stated the developer would be mass grading the entire site, and a house had been replaced on the plans with a detention basin and open space to hold water.

Merritt stated that the two open spaces shown on the plans were for the primary function of retention areas.

Dingee reiterated that the hearing tonight was for the zoning entitlement and the technical aspects would be addressed with the platting process.

Switzer asked if the retention basins would serve as a reclamation source for water.

Dingee replied that reclamation could be discussed at the platting process.

Baugier added the developer planned on building 1000 linear feet of line to attach to the Town water and sewer. The subdivision to the South was supplied by a private water company, so the new subdivision would not affect the water pressure of that development.

Merritt stated that most of the traffic during construction would not be in the road right of way, but on the strip in front of the subdivision to bring utilities up with daily traffic until completed.

Baugier replied that the developer would have all necessary traffic control practices in place so it would have the least impact as possible.

Motion was made by Switzer, seconded by Pasciak to approve ZC-2024-04, as presented, subject to the staff report and information provided during the hearing, and the revised Conditions of Approval in Attachment A to include a four-year sunset clause. A roll-call vote was taken, and the motion passed unanimously with a 7-0 vote.



TOWN OF CHINO VALLEY
Planning Commission Staff Report
August 6th, 2024
File Number ZC-2024-04
Rezone

PROJECT DESCRIPTION

This is a request by Augustin Baugier, on behalf of Meadowview North LLC, for a rezone of approximately 10 acres of land from Agricultural Residential, minimum 5 acres (AR-5) to Single Family Residential, minimum 12,000 square feet (SF-12,000). The property is located on the north side of E. Road 2 North, between Peppertree Place and James Drive, Chino Valley, Arizona. APN: 306-18-017C and 306-18-017D

LOCATION DATA

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	"AR-5" - Agricultural Residential (5-Acre Minimum)	Vacant	NR- Neighborhood Residential (1-4 du/ac)
North	"SR-0.16" - Single Family Residential	Single Family Homes (Chino Meadows)	NR- Neighborhood Residential (1-4 du/ac)
South	"SR-0.16" - Single Family Residential	Single Family Homes (Chino Meadows Unit 2)	NR- Neighborhood Residential (1-4 du/ac)
East	"AR-5" - Agricultural Residential (5-Acre Minimum)	Vacant	NR- Neighborhood Residential (1-4 du/ac)
West	"PL" - Public Land	City of Prescott Well Facility	OSP - Open Space/Parks (1 du/ac)

LOCATION MAP



PRIOR SITE ACTIONS:

Land Division History

March 2, 2002 – Land Split of Parcel # 306-18-017, resulting in sibling parcels # 306-18-017A & 306-18-017B.

July 14, 2005 – Land Split of Parcel# 306-18-017B, resulting in sibling parcels # 306-18-017C, 306-18-017D, 306-18-017E, & 306-18-017F).

Rezone History

May 6, 1986 – Request to Rezone Parcel # 306-18-017 from AR (Agricultural/Residential) to R-3 (High Density Single Family Residential) for the Prairie Vista subdivision was unanimously denied by Planning and Zoning Commission until a more specific development plan could be provided.

June 17, 1986 – Planning and Zoning Commission voted unanimously to approve request to Rezone Parcel # 306-18-017 from AR (Agricultural/Residential) to R-2 (Medium Density Single Family Residential).

July 19, 1986 – Town Council voted unanimously to approve rezone of Parcel # 306-18-017 from AR to R-2, subject to conditions approved by Town Council.

December 26, 1987 – Property zoning reverted to AR (Agricultural/Residential) because applicant failed to meet condition #3, “the zoning will revert to Agriculture if all subdivision requirements are not met within 18 months”.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission forward to the Town Council a recommendation of **APPROVAL** for the rezoning of approximately 10 acres of land from AR-5 Agricultural Residential to SF-12,000 Single Family Residential, for property generally located on the north side of E. Road 2 North, between Peppertree Place and James Drive, Chino Valley, Arizona, with the Conditions of Approval found in Attachment A.

SUGGESTED MOTION:

Move to **APPROVE** Rezone ZC-2024-04 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 Rezone, the Planning and Zoning Commission is recommending approval to the Town Council for the rezoning of approximately 10 acres of land from AR-5 Agricultural Residential to SF-12,000 Single Family Residential for property generally located on the north side of E. Road 2 North, between Peppertree Place and James Drive, Chino Valley, Arizona, subject to the staff report and information provided during this hearing.

Site Background:

In 1990, the Chino Valley Town Council enacted Ordinance 147, which adopted a revised Chino Valley Town Code. As a result of this ordinance, parcels #306-18-017C & #306-18-017D changed from the AR Zoning District to the existing AR-5 (Agricultural Residential 5-Acre Minimum) Zoning District.

On March 2, 2002, parcel # 306-18-017 was split into sibling parcels # 306-18-017A & 306-18-017B. On July 14, 2005, parcel # 306-18-017B, resulting in sibling parcels # 306-18-017C, 306-18-017D, 306-18-017E, & 306-18-017F).

On December 13, 2022, the Planning and Zoning Commission heard case ZC-2022-05 requesting rezone from AR-5 to SF-12,000 with a concept plan consisting of 25- lots and forwarded a favorable recommendation of approval with a unanimous 7-0 vote.

On January 10, 2023, the Town Council heard case ZC-2022-05 rezone request for rezone from AR-5 to SF-12,000 with a concept plan consisting of 25-lots and the motion failed with a 3-4 vote.

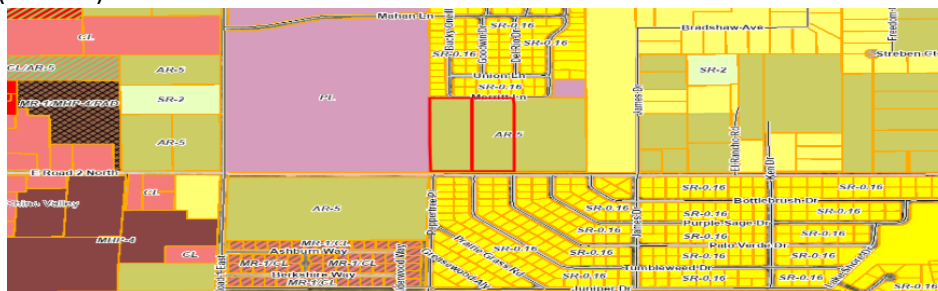
Staff Analysis:

The applicant is requesting a rezone from Agricultural Residential 5-Acre Minimum (AR-5) to Single Family Residential 12,000 square foot minimum (SF-12,000). The applicant intends to construct a 23-lot subdivision of manufactured homes with attached site-built garages, multi-use paths at the north and south of community access points and vehicular thru access via Merrit. The community is named Meadowview North which will offer water efficient landscape and irrigation practices. The project is proposed to be completed in one phase, including multi-use paths, curb, gutters, sidewalks, pavement improvements along Merrit Lane, 2-detention basins, and shall be served by Town of Chino Valley water and sewer infrastructure.

Directly south of this project is a strip of land 25 feet wide and approximately 1000 feet long with a parcel number of 306-18-017F. In 2002 an easement was granted over this thin parcel to the Town of Chino Valley for the future dedication of (East) Road 2 North. At the time of the dedication, the Town of Chino Valley did not have the funds to pay for the dedication, therefore it was granted only as an easement to Chino Valley with the Grantor retaining ownership of the land. Because of this, the Town of Chino Valley sees no issue with the project accessing Road 2 North through parcel 306-18-017F. The conceptual plan meets the intent of the rezone request and shall further undergo the preliminary plat and final plat process which will consist of a similar timeline as the current rezone request.

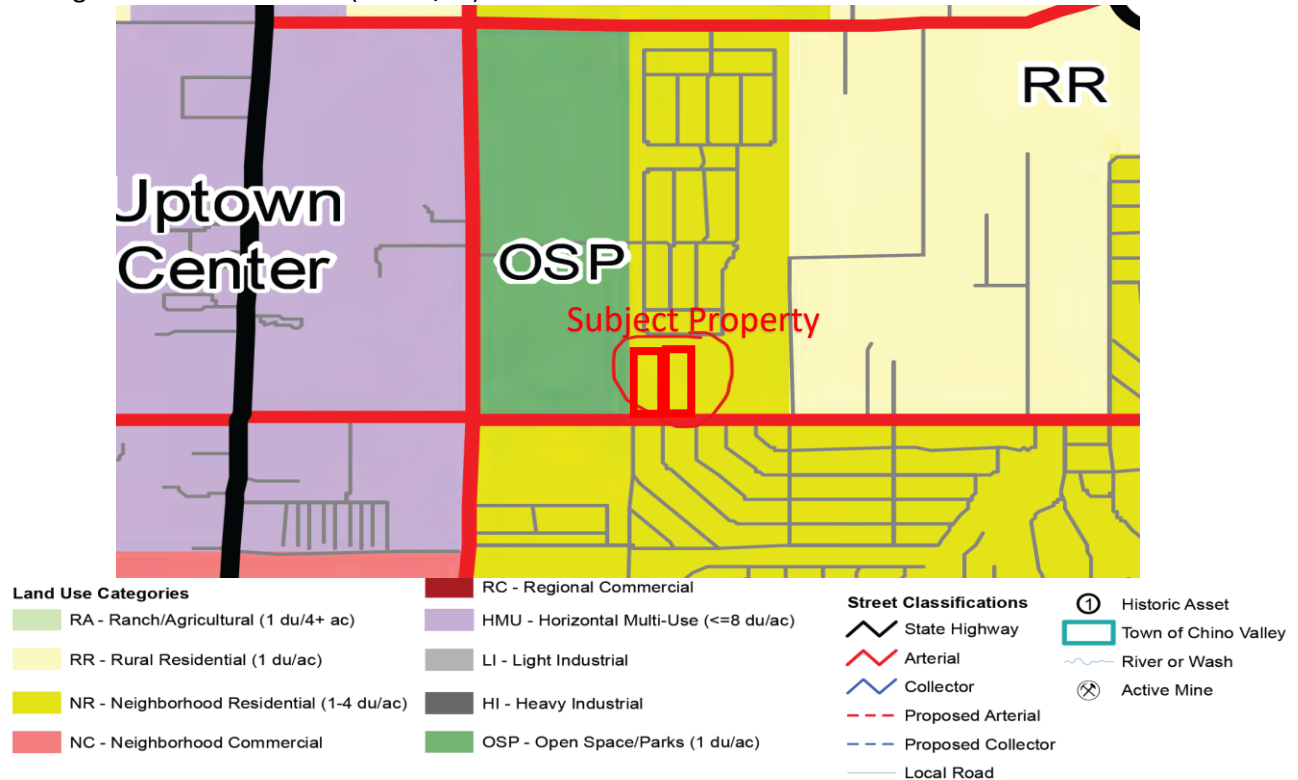
Zoning

Section 3.11B of the Unified Development Ordinance lists “One (1) single-family dwelling” as permitted use within the SF-12,000 Single Family Residential zoning district. The resulting rezone will allow for larger parcels at minimum 12,000 square feet, than those adjacent to the North (Chino Meadows) and South (Chino Meadows Unit 2), which are zoned Single Family Residential 0.16-Acre Minimum 7,000 square feet (SR-0.16).



General Plan

The zoning request of SF-12,000 Single Family Residential zoning district will bring this property into conformance with the Towns recently adopted Make it Chino 2040 General Plan's land use designation of Neighborhood Residential (1-4 du/ac).



Neighborhood Residential (NR)	4 du/acre	This category applies to areas that are the primary "small-town" residential neighborhoods in Chino Valley. Properties are connected to community water and sewer systems and are located close to parks, recreation facilities, schools, and commercial and employment land uses. Streets in these areas may include sidewalks, curbs, and gutters. All lots shall be greater than 12,000 square feet. Detached single-family homes and customary accessory structures and uses are prevalent in this category. Manufactured homes are also allowed within amenitized manufactured home subdivisions and parks.	SR-24,000 SF-12,000 MHP-4 PL
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Conceptual Site Plan:



PUBLIC COMMENTS RECEIVED: None Received

EXTERNAL AGENCY COMMENTS: See Attachment B

NEIGHBORHOOD MEETING COMMENTS: See Attachment C

PROPOSED CONDITIONS DELIVERED TO APPLICANT ON: July 23, 2023

☒	Applicant agreed with all of the conditions of approval on (July 24, 2024)
☐	Applicant did not agree with the following conditions of approval: ()
☐	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	Applicants Narrative

PREPARED BY:

DATE:

JESSICA BARRAGAN, SENIOR PLANNER
(JBARRAGAN@CHINOAZ.NET)
928 636-3446

JULY 23, 2023

APPROVED BY:

WILL DINGEE
ASSISTANT DIRECTOR DEVELOPMENT SERVICES

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, 928 636-4427- x1217

1. The conditions listed below are in addition to any Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate "Waiver of Claims" document.

Public Works/Engineering: Steve Sullivan, Assistant Town Engineer, (928) 636-7140 - x1308

3. The developer shall connect the subdivision to the Town's public water system per Town Code of Ordinances §51.075. The developer shall construct a new minimum 12" water main between North Road 1 East and the eastern property line of 306-18-017D.
4. The developer shall connect the subdivision to the Town's public wastewater system per Town Code of Ordinances §51.155. The Town has an existing 12" sewer main in East Road 2 North.
5. Legal access to Road 2 North will be provided by that certain easement for the dedication of Road 2 North recorded on January 30, 2002, at Book 3897, Page 423, Records or Yavapai County, Arizona, Yavapai County Recorder's No. 3426062 (the "Road 2 North Easement"). To the fullest extent permitted by law, the owner agrees to 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"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon owner's access to Road 2 North via the Road 2 North Easement or any improvements constructed in the easement by the owner.
6. The developer shall dedicate right-of-way per UDO § 5.3.2 as follows:
 - a. East Road 2 North: 30' north of the southern line of section 14 equating to a total East Road 2 North right-of-way of 80'.
 - b. East Road 2 North and the Subdivision's Front Entrance: 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.
 - c. Merritt Lane: The northern 25' of the subdivision equating to a total Merritt Lane right-of-way of 50'.

ATTACHMENT A
CONDITIONS OF APPROVAL

- d. Merritt Lane and the Subdivision's Rear Entrance: At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of twenty-five (25) feet for local streets.
 - e. Internal Streets: Minimum right-of-way width is 50'. At street intersections, property line corners shall be rounded by circular arc having a minimum chamfer length of twenty-five (25) feet for local streets.
7. The developer shall construct the half-width improvements on East Road 2 North along the subdivision's frontage per the Town's Urban and Rural Roadways map as follows:
- The improvements shall include, at a minimum, a 10' concrete multi-use path, required landscaping, 6" concrete curb and gutter, and asphalt road half-width improvements to include a 12' thru lane and half of a 14' two-way left turn lane.
8. The developer shall construct the following onsite improvements per UDO § 5.3.2:
- Internal Streets: Per Urban Local Road standards that includes 24' asphalt minimum roadway width without on street parking, rolled concrete curb and 5' minimum concrete sidewalk on one side.
9. The developer shall align the proposed Meadowview Ct with the existing Tumbleweed Dr to the south.
10. The developer shall construct a full width, minimum 2" asphalt overlay on Merritt Lan between the northerly EC/BC of Bucky Oneil Dr and the eastern property line of 306-18-017D.
11. Town Code of Ordinance § 150.081 Except as exempted in § 150.082, all existing and new utility and telephone lines, electric utility distribution lines, cable television lines and all other communication and utility lines adjacent to or within new residential, commercial or industrial subdivisions or other areas to be developed within the town shall be installed underground at the time of development of the property as part of the required off-site and on-site improvements. The developer of the property shall be responsible for the costs of the underground construction in accordance with the underground policy of the serving utility.

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
EXTERNAL AGENCY COMMENTS

FIRE DEPARTMENT COMMENTS:

FIRE 1: Residential fire sprinkler system required for new buildings 5,000 square feet or larger.

FIRE 2: Ensure address identification letters are in Arabic font and a minimum of 6 inches high with a minimum stroke width of .5 inch. The numbers shall contrast with their background. Ensure unit/spaces are clearly identified with designators. 2018 IFC Section 505.1 (CAFMA local amendments)

FIRE 3: An approved water supply capable of supplying the required fire flow for fire protection shall be provided. This requirement shall be met by fire hydrants, fire sprinkler system or water tanks

where municipal water supply is not available. 2018 IFC Chapter 5, Appendix B, C and D

FIRE 4: Street widths shall be a minimum of 20 feet wide with and 13 foot 6 inches of height clearance. 2018 IFC Section 503.2.1

FIRE 5: Ensure fire apparatus access roads are capable of supporting a minimum weight of 75,000 pounds and are made of an all-weather surface. 2018 IFC Appendix D

FIRE 6: If a residential fire sprinkler system is required then deferred plans to be submitted to CAFMA.

FIRE 7: Fire apparatus access roads shall have an unobstructed vertical clearance of 13' 6". 2018 IFC 503.2.1

FIRE 8: Provide signage indicating "No Parking Fire Lane" for designated fire lanes on site. 2018 IFC Section 503.3

FIRE 9: Note, subdivision with over 30 units required to have 2 means of egress/ingress. 2018 IFC Appendix D

FIRE 10: Deferred submittal to CAFMA required for fire hydrants.

WATER ADVISOR:

1. A certificate of assured water supply (CAWS) is not needed for a rezone, however, a CAWS will be required at the time of final plat consideration and approval. The process for a CAWS is administered by the Arizona Department of Water Resources. Should the rezone be approved the following items will or may be required.

a. If extinguishment credits are needed for the CAWS the Town has such credits for sale pending an approval by the Town Council. The price per Town ordinance for each AF of assured water supply credit (block of 100 AF of extinguishment credits) may be purchase for \$25,000 per AF. The Town would create a purchase agreement for this activity.

b. The landowner to the east is also considering a high-density subdivision of which you may find common interest in collaborating for the extension of water and sewer infrastructure to your projects.

c. A development agreement may be necessary for certain aspects of the development if the developer invests in offsite infrastructure improvements that is requested and approved for reimbursement activities.

d. All reclaimed water (Sewage influent) generated from this development will be owned by the Town and should the developer desire to purchase any of these reclaimed water credits the Town Council would need to approve the sale and use and these per AF costs per Town ordinance is \$25,000 per AF for each assured water supply credit

ATTACHMENT C
NEIGHBORHOOD MEETING COMMENTS

DATE MEETING HELD: JULY 3RD, 2024

LOCATION: ON SITE

ATTENDEES:

AGENT/DEVELOPER: AUGUSTINE BAUGIER AND JON ROCHA

TOWN STAFF: JESSICA BARRAGAN, SENIOR PLANNER

NEIGHBORS IN ATTENDANCE (TWO IN ATTENDANCE)

SUMMARY OF ATTENDEE(S') COMMENTS RELATED TO THE PROJECT:

- NEIGHBORS WANTED TO INSURE THAT ONGOING COMMUNITY HOA MAINTENANCE WOULD OCCUR IN COMMON AREAS.
- CONCERNS WERE VOICED OVER THE POTENTIAL BANNING OF THEIR CHICKEN AT LOTS NEAR DETENTION BASINS.
- CONCERNS ABOUT THE SAFETY OF CHILDREN CROSSING OVER THE BASINS FROM SURROUNDING NEIGHBORHOOD.
- BOTH NEIGHBORS SUPPORTED THE REZONE AND EXPRESSED CONCERNS OVER THE POTENTIAL BARRIERS NEEDED TO KEEP CHILDREN AWAY FROM PLAYING IN THE GUTTER WATERS WHEN THERE'S POTENTIAL RAINS.

ATTACHMENT D
SITE PLAN AND EXHIBITS

APN# 306-18-017C & 306-18-017D

ADDRESS: E ROAD 2 NORTH (BETWEEN PEPPERTREE PLACE AND JAMES DRIVE – NO ADDRESS ASSIGNED).



ATTACHMENT E

STAFF RESEARCH



STAFF RESEARCH –MEADOWVIEW NORTH ZONE CHANGE

CASE #: ZC-2024-04

CASE PLANNER: JESSICA BARRAGAN

PROJECT NARRATIVE: This is a request by Augustin Baugier, on behalf of Meadowview North LLC, for a rezone of approximately 10 acres of land from Agricultural Residential, minimum 5 acres (AR-5) to Single Family Residential, minimum 12,000 square feet (SF-12,000). The property is located on the north side of E. Road 2 North, between Peppertree Place and James Drive, Chino Valley, Arizona. APN: 306-18-017C and 306-18-017D

I. PROJECT DATA

Project Location:		E Road 2 North – Between Peppertree Place and James Drive				
Parcel Number(s):		306-18-017C & 306-18-017D				
Parcel Size(s):		435,600 sf				
Total Acreage:		10				
Proposed Dwelling Units:		23 (23-units/10-acres = 2.3 units/acre).				
Address:		E Road 2 North				
Applicant:		Meadowview North				
Applicant's Agent:		Augustine Baugier				
Conforms to G.P. Land Use Conformity Matrix:		Yes		No	X	Rezoning for conformity
Zoning Overlay		PAD	N/A			
Within ½ Mile of SR89?		Yes		No	X	If yes, Property is restricted – site-built only
	Existing Zoning	Use(s) on-site				General Plan Designation
Site	“AR-5” - Agricultural Residential (5-Acre Minimum)	Vacant				NR– Neighborhood Residential (1-4 du/ac)
North	“SR-0.16” – Single Family Residential	Single Family Homes (Chino Meadows)				NR– Neighborhood Residential (1-4 du/ac)
South	“SR-0.16” – Single Family Residential	Single Family Homes (Chino Meadows Unit 2)				NR– Neighborhood Residential (1-4 du/ac)
East	“AR-5” - Agricultural Residential (5-Acre Minimum)	Single Family Home				NR– Neighborhood Residential (1-4 du/ac)
West	“PL” – Public Land	City of Prescott Well Facility				OSP – Open Space/Parks (1 du/ac)
Prior Cases or Related Actions:		PA-2024-10, ZC-2022-05				
Type					Cases, Actions or Agreements	
Pre-Annexation Agreement	Yes		No	X	N/A	
Annexation	Yes	X	No		September 21, 1970 - Original Town	
General Plan Amendment	Yes		No	X	N/A	
Development Agreement	Yes		No	X	N/A	
Rezone	Yes	X	No		April 15, 1986 – Request to Rezone Parcel # 306-18-017 from AR to R-3 for a subdivision. (Denied)	

ATTACHMENT E STAFF RESEARCH

				June 17, 1986 – Request to Rezone Parcel # 306-18-017 from AR to R-2. (Approved by P&Z and Town Council) December 26, 1987 - Reversion to AR.
Subdivision	Yes	No	X	N/A
Conditional Use Permit	Yes	No	X	N/A
Pre-Application Meeting	Yes	X	No	April 10, 2024 - (PA-2024-10)
Enforcement Actions	Yes	X	No	July 14, 1998 - Weeds June 10, 2009 - Weeds
Land Division Status:	Yes	X	No	March 2, 2002 - Land Split from Parcel # 306-18-017. (Sibling Parcels # 306-18-017A & 306-18-017B) July 14, 2005 - Land Split from Parcel # 306-18-017B. (Sibling Parcels # 306-18-017C, 306-18-017D, 306-18-017E, & 306-18-017F).
Irrigation District:	N/A			

II. TOWN OF CHINO VALLEY GENERAL PLAN

Land Use Element:									
Land Use Designation:		"AR-5" - Agricultural Residential (5-Acre Minimum)							
Is Project larger than 25 AC or 50 d.u.?		L.U. Policy 2.1		N/A		PRN Policy 2.8		N/A	
Issues:		None							
Circulation Element:									
Road Classification		Arterial		Existing Row		N		Required Row Y	
Issues:		None							
Parks, Recreation, and Natural Resources Element:									
Closest Park:		Community Center Park							
Within 1 mile of the Peavine Trail?		N/A							
Flooding?		FEMA Flood Plain Designation		N/A		Town Flood Map		N/A	
Issues:		No							
Community Services and Facilities Element:									
Water Source:		Town		x		Well		Prescott	
Sewer:		Town		x		Septic		Private System:	
Issues:		None							
Economic Development Element:									
SR-89 Corridor?		No		Enhancement: Goal ED-6		N/A			
Old Home Manor?		No		Goal ED-2		N/A			
Issues:		None							

NOTIFICATION

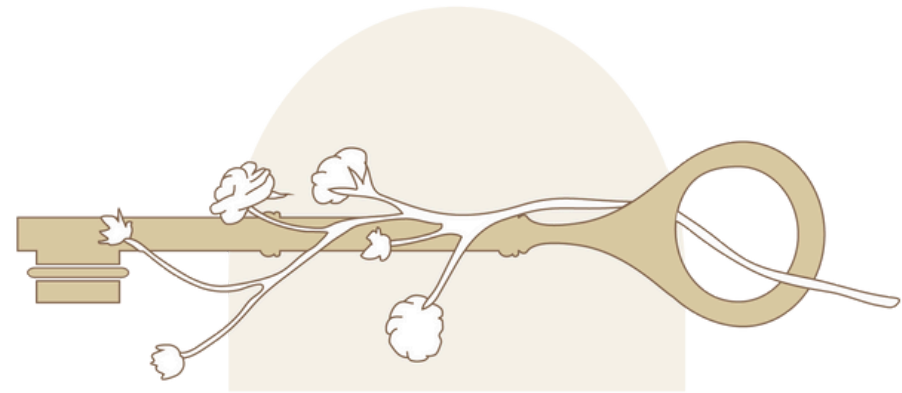
- **Legal Ad Published:** (07/09/2024)
- **Neighborhood Meeting:** (07/03/2024)
- **(300 FEET)' Vicinity Mailing:** (06/17/2024)
- **Hearing Dates:** (PZ on 08/06/2024) & (TC on 09/10/2024)
- **Reviewing Agencies Noticed:** (06/18/2024)
- **Comments Due:** (7/4/2024)

ATTACHMENT E
STAFF RESEARCH

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Samantha Alvarez – APS	X	7/1/24	X		
Richard Perez - A.D.O.T.	X	7/1/24	X		
Ralph Baker – C.V.I.D.					
Darrell Tirpak - CAFMA	X	7/1/24		X	X
Suzanne Ehrlich – YC ENV					
Monica Kriner – YC Health					
SparkLight Cable					
LUMEN (Previously Centurylink)					
External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Unisource Gas					
CVUSD					
United States Postal Service					
Mark Holmes – Water Advisor	X	6/26/24		X	X
Town of Chino Valley Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Jessica Barragan – Senior Planner – Development Services	X	7/8/24		X	X
Will Dingee – Assistant Director – Development Services					
Laurie Lineberry – Director – Development Services	X	7/8/24		X	X
Frank Marbury – Engineer/ Public Works Director					
Steve Sullivan – Assistant Engineer – Public Works	X	7/8/24		X	X
Dan Trout – Chief Building Official – Development Services					
Frank Snowney or Keith Hurtt – Code Enforcement – Development Services					
Chuck Winn – Chief of Police - Police					

ATTACHMENT F
APPLICANTS NARRATIVE

APPLICANTS NARRATIVE PACKET ATTACHED.



MEADOWVIEW

NORTH



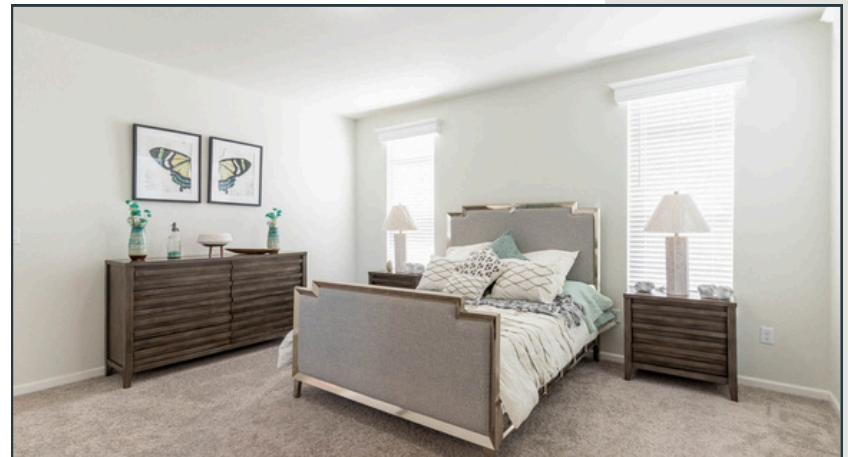
PROJECT OVERVIEW

Southwest Homes LLC (the “Developer”) seeks to develop approximately ten (10) acres of land, composed of two (2) contiguous parcels, located on the northeast corner of E Road 2 North and Peppertree Place, approximately half (1/2) of a mile east of the intersection of State Route 89 and Road 2 North (the “Property”). The Property is currently zoned AR-5. The Developer desires to rezone the Property to include an SF-12000 (Single Family Residential – 12,000 minimum square foot lots) district. A re-zone would allow for the development of 23 for-sale homes.

EXTERIORS



INTERIORS



VISION

Community Need + Impact

Chino Valley, like many growing communities, faces a significant challenge in meeting the housing needs of its residents. Quality affordable housing is not just a requirement but a foundation for community stability and growth. By rezoning this land, we will directly address this critical shortage, allowing for the development of cost-effective, sustainable housing that remains within the financial reach of more citizens.

Sustainable Development

In our sustainable development approach, we're dedicated to responsible water management practices. This includes implementing low irrigation landscaping and installing fixtures in homes that minimize water usage. By integrating these strategies, we're not only reducing water consumption but also contributing to the overall sustainability of the community. This commitment aligns with our goal of creating environmentally conscious housing developments that prioritize resource conservation and long-term environmental health.

Economic Benefits

Investing in more attainable housing options stimulates local economies. It creates jobs, both during and after construction, and increases local spending. Additionally, more attainable housing can lead to greater economic diversity and vitality, attracting a broader range of talents and skills to the area, which is vital for long-term economic resilience.

Supporting Local Infrastructure and Services

Our project will be designed to complement existing infrastructure, minimizing any need for substantial new investments from the town. We are committed to working closely with the Town of Chino Valley to ensure that the development supports and enhances current traffic flows, utility networks, and community services.

Community Support and Collaboration

We have engaged with local stakeholders and community members to gather input and support for this proposal. The feedback has been overwhelmingly positive, with many residents expressing a need for more attainable housing options. We are committed to maintaining this open dialogue to ensure the project aligns with the community's needs and expectations.

VISION

General Plan Conformance

The General Plan for 2040 Chino Valley, ratified in November 2023, designates this area as "Neighborhood Residential.". The General Plan 2040 defines Neighborhood Residential as "areas that are primary 'small town' residential neighborhoods in Chino Valley. Properties are connected to Community Water and sewer systems and are located close to parks, recreation facilities, schools, and commercial and employment land uses. Streets in these areas may include sidewalks, curbs, and gutters. All lots shall be greater than 12,000 square feet. Detached single family homes and customary accessory structures and uses are prevalent in this category." By adhering to these parameters, our proposed land use is not only in conformity with the General Plan but also advances Chino Valley towards its long-term goals.

We believe that rezoning this land for Single Family Residential use is not only in alignment with the community's needs but also an opportunity for Chino Valley to lead the way in creating affordable and sustainable living options. This initiative will serve as a model for responsible community development that can inspire similar efforts throughout the region.

Based on the guiding principles outlined within each element of the General Plan, the requested project conformance is contingent upon the applicant's reasonable justification of meeting and/or exceeding the intent of the General Plan. See conditions identified, but not limited to, below:

1. Policy LU-11.1 Encourage new developments to incorporate natural open space into development plans –show this on the plan. Review and Approval of Landscape plan required at Preliminary Plat approval.
2. Policy LU-11.3 Employ best practices for developing in conformance with natural site topography to avoid significant alterations of the landscape and to limit grading impacts, especially along Granite Creek and known floodplains. – Show on plan how natural features are being used in overall design. This can also be more reflective in your landscape and irrigation plan.

VISION

3. Policy LU-13.1 Improve community health and the appearance of existing neighborhoods by proactively enforcing compliance with the property maintenance and nuisance codes. – -- This can be considered under the proposed list CC&R's.
4. Policy LU-13.3 Educate the community on the benefits of property maintenance and enhancement, as well as the property assistance programs available to them. --- This can also be covered under the proposed CC&R's.
5. Policy LU-13.5 Evaluate and prioritize right-of-way acquisition for the development of sidewalks or multi-use paths for existing neighborhoods to ensure safe pedestrian travel. – -- Plan should incorporate soft-trails and open spaces creating communal connectivity. – show concept on plan or conceptual landscaping. – This will be further assessed in your landscape and irrigation plan review.
6. Policy C-2.1 Improve accessibility by updating public right-of-way development requirements to include sidewalks, bicycle lanes, and soft paths on multi-use areas along new collector and arterial roads that enhance public safety, comply with ADA standards, and expand the ability of the streets to support additional businesses.
7. Policy C-2.2 Create a Pedestrian Safety Plan to provide sidewalks or multi-use trails and paths throughout the community. – This will be further assessed in your landscape and irrigation plan review.
8. Policy C-2.3 Establish a sidewalk development program to address current gaps in the system of sidewalks connecting neighborhoods and activity areas, particularly along arterial roads. – Show internal and external connectivity plan. -- This will be further assessed in your landscape and irrigation plan review.
9. Policy C-2.4 Prioritize roads and access for sidewalks or pathways between schools and neighborhoods to integrate Safe Routes to School initiatives for student safety.
10. Policy PRN-2.2 Partner with private landowners to acquire land for future neighborhood and community parks through land dedications in conjunction with the rezoning and development review process.

VISION

11. Policy PRN-2.4 Explore opportunities to develop linear parks and trails through neighborhoods and along drainage channels. **

12. Policy PRN-2.5 Provide for the enhancement and maintenance of parks, trails, and open space through public-public and public-private partnerships, volunteer programs, and other agencies or entities as appropriate.

13. Policy PRN-2.7 Coordinate and partner with the Chino Valley Irrigation District to assess the feasibility of utilizing Irrigation District easements to develop pedestrian and equestrian trails.

14. Policy PRN-2.8 Require new subdivision developments of fifty (50) or more residential lots to provide, develop- and maintain, active, amenities park space accessible by residents. The size, configuration, and location of the park space should be adequate to serve all homes that are part of the project.

15. Policy PRN-3.4 Identify, preserve, and manage a connected open space system that provides natural areas with access for residents and visitors.

16. Policy PRN-4.1 Prioritize open space preservation in new developments.

17. Policy PRN-4.5 Consider impacts to known wildlife habitats during development application review. Show and or elaborate on any mitigation measures which reduce negative impacts to sensitive habitat areas, if such are founded on this site. Staff will assess existing geographical conditions for potential preservation opportunities.

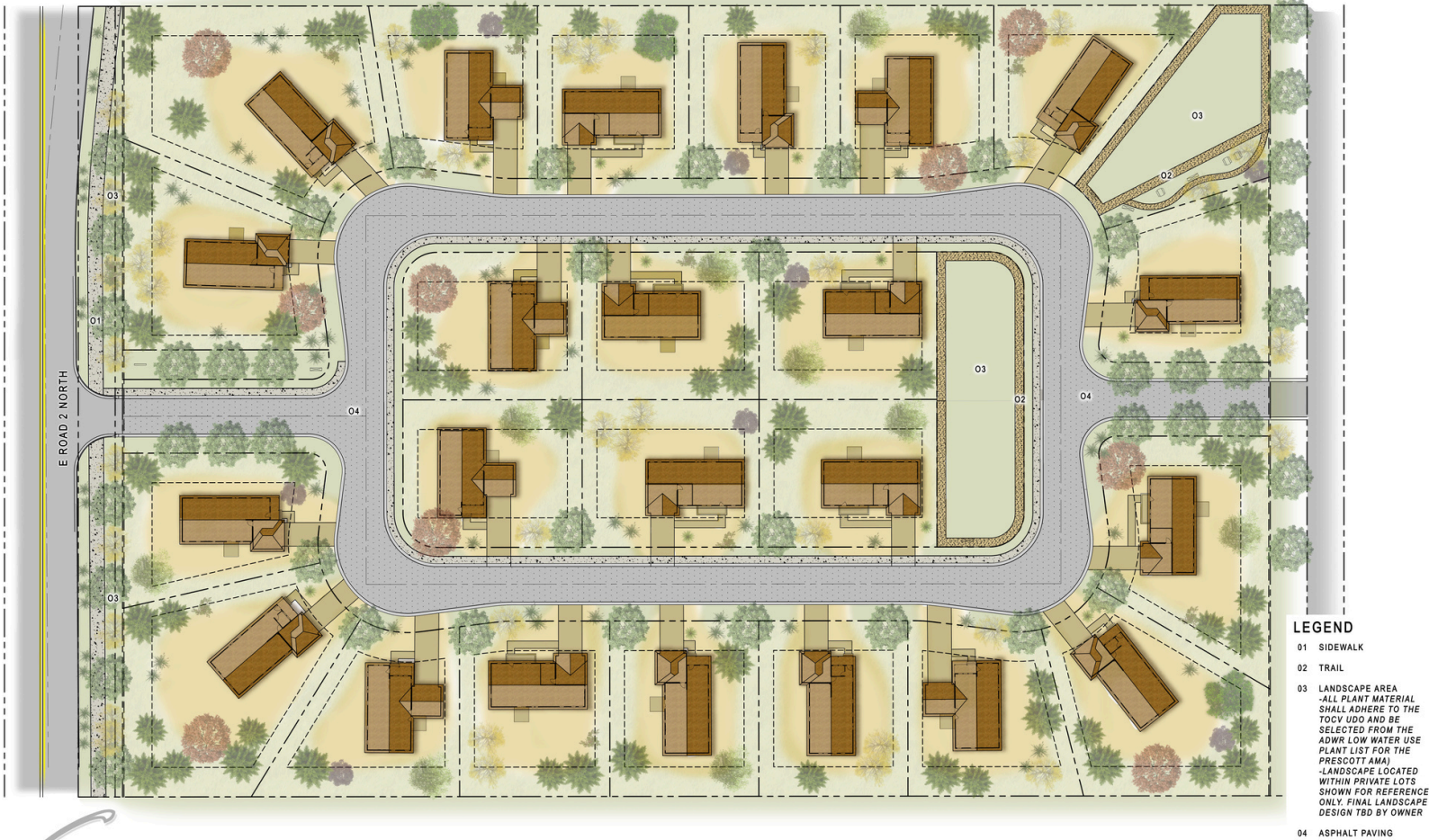
18. Policy PRN-6.1 Encourage the implementation of alternative water conservation methods, including stormwater collection systems such as green infrastructure and Low Impact Development principles. – Address or show the types of systems used.. This will be further assessed in your landscape and irrigation plan review.

VISION

19. Policy PRN-7.1 Balance development and growth with the town's resource capacity. Consider the social, economic, and environmental impacts of development and growth on the town's existing and future resource capacity.
20. Policy PRN-7.2 Review development proposals to ensure that they will not result in potential adverse impacts to the Town's water resources portfolio or to the physically available water supplies within the aquifer.
21. Policy PRN-7.5 Required drought-tolerant landscaping in new development. Require the use of xeriscape landscaping and plants with low water needs in appropriate areas of the town.
22. Policy CSF-2.2 Ensure that infrastructure extensions and expanded public services needed to support new development are mutually beneficial for the Town and the developer.
23. Policy CSF-2.3 Evaluate and update development standards to align required dedications and exactions with municipal facility, infrastructure, park, and transportation plans.
24. Policy CSF-4.5 Require new development to not exceed the capacity of existing infrastructure and develop the infrastructure necessary to meet the towns level of service requirements.
25. Policy CSF-8.5 Require new development to be responsible for the installation of any infrastructure extensions, beyond what the Town is required to cover.



CONCEPTUAL SITE PLAN AND BUILDING ELEVATION



Celia A. van der Molen
LANDSCAPE ARCHITECT | 928.277.7336
INFO@SKETCH-LA.COM

MEADOW VIEW NORTH

E ROAD 2 NORTH CHINO VALLEY, AZ

SOUTHWEST HOMES



CONCEPTUAL SITE PLAN AND BUILDING ELEVATION



RELATIONSHIP TO SURROUNDING PROPERTIES

Table 1: Relationship to Surrounding Properties lists the neighboring communities or landowners, as well as the uses, zoning and jurisdiction. Figure 1 – Surrounding Properties highlights the Property and Figure 2 – Existing Zoning illustrates the existing zoning of the Property and surrounding properties.

TABLE 1: RELATIONSHIP TO SURROUNDING PROPERTIES

North	Flannery Rachel Mulkey Matthew & Tiffaney RS Millan Custodio Millan & Ayala Efigenia Estrada (Rs) Little Jeffrey Todd & Karrie L JT	SR-0.16 (Chino Meadows Subdivision) Chino Meadows is an existing manufactured home “Fee Simple” residential subdivision.
East	Right Homes LLC	AR-5 (Ranch/Agricultural) Right Homes LLC has approached and met with Town Staff with intent to develop property for a manufactured homes subdivision.
South	Mullen Bonnie Ledford Gail Marsh Lucinda J Living Trust	SR-0.16 (Chino Meadows Unit 2 Subdivision) Chino Meadows Unit 2 is an existing manufactured home “Fee Simple” residential subdivision.
West	City of Prescott	PL (Public Land) Active water well & pump station.

FIGURE 1 – SURROUNDING PROPERTIES

FIGURE 1- SURROUNDING PROPERTIES

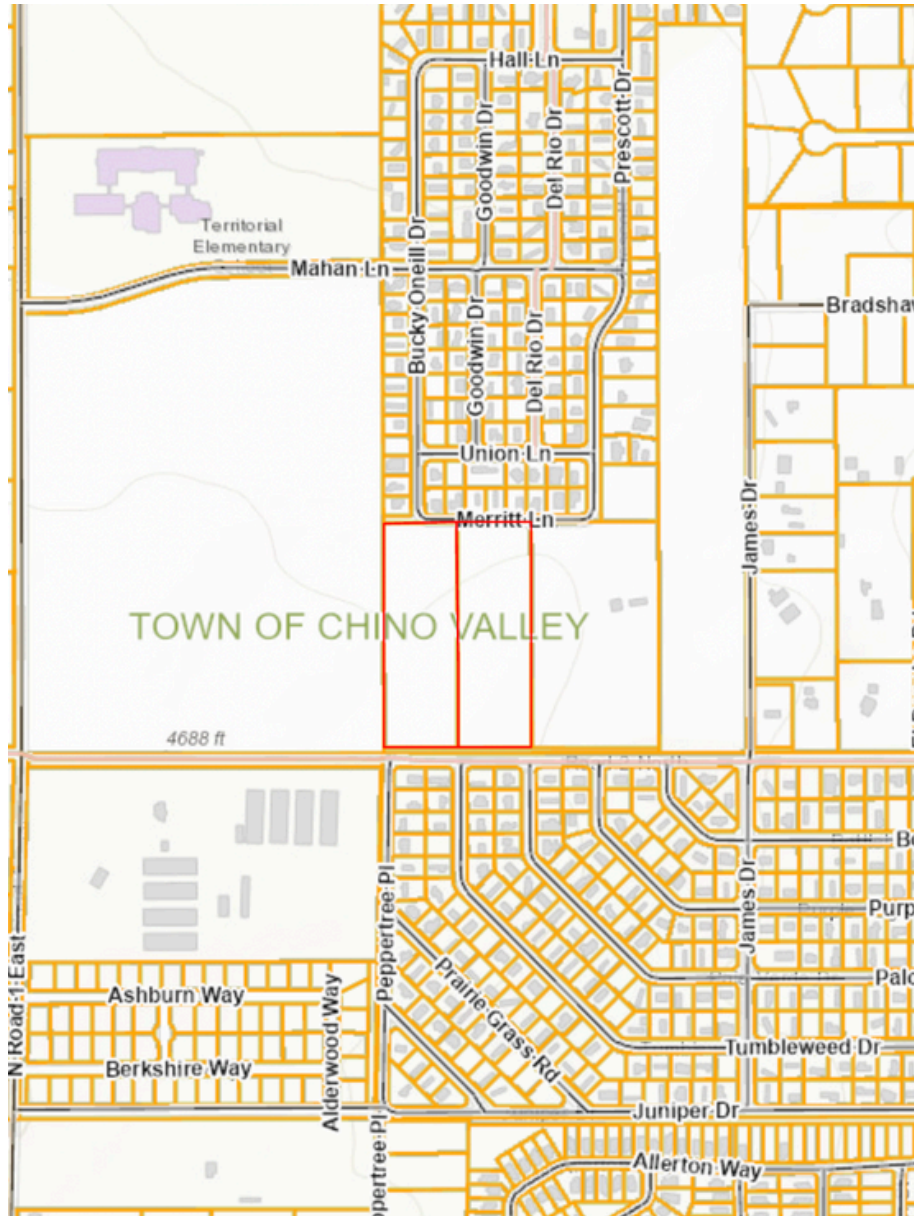
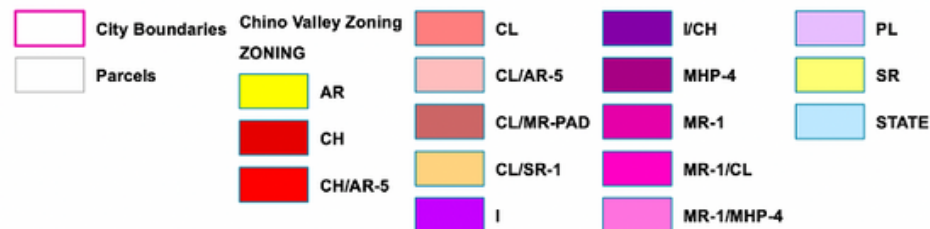
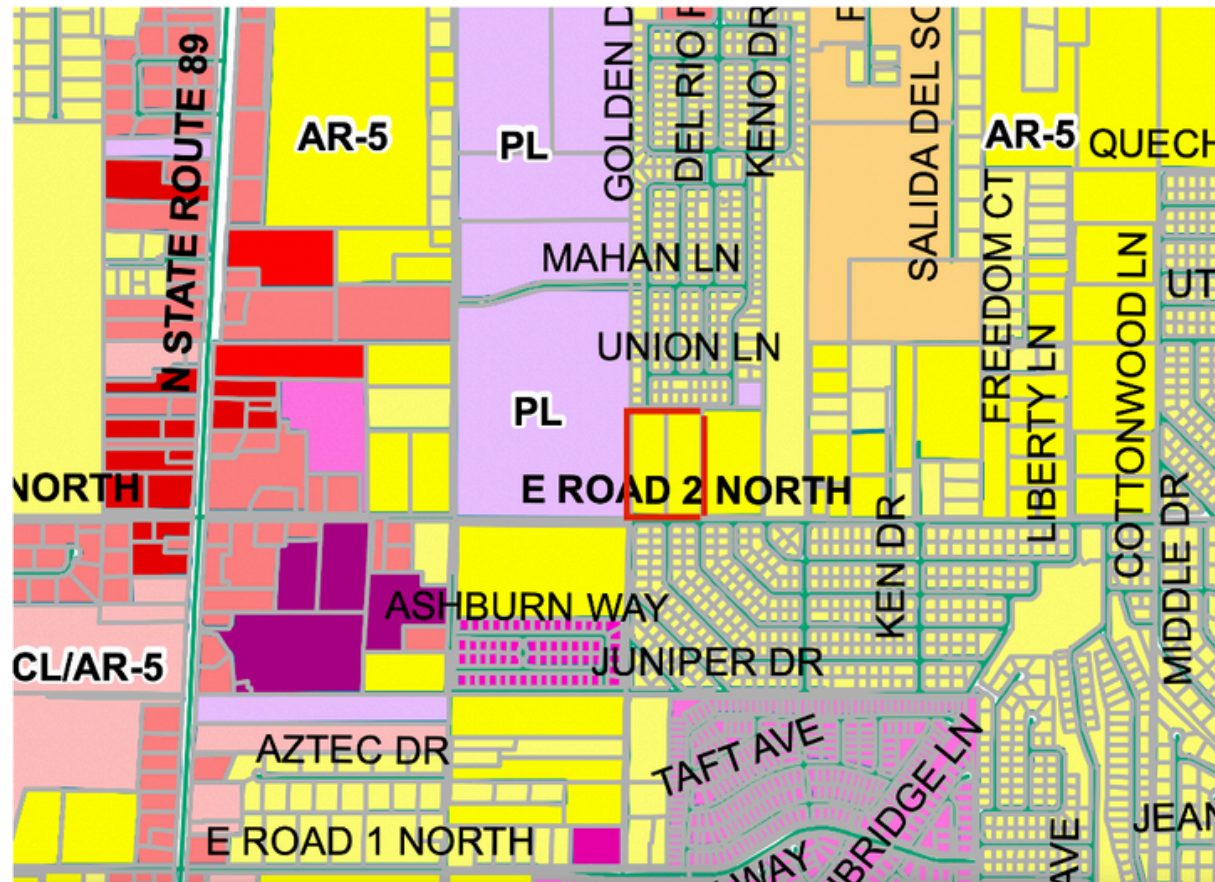


FIGURE 2- EXISTING ZONING



Circulation

The proposed project is seeking to develop a 23 lot subdivision on APNs 308-16-017C & D under the Town of Chino Valley SR-12,000 requirements. The project will be developed in one phase. The site entrance will be located off Road 2 North with continuous access to Merritt Lane through the subdivision, to address the previous concern from Town Council. The internal road will consist of asphalt pavement, rolled curb, and sidewalk on the internal loop side. The internal road will be designated as a public road. The site will also provide pedestrian trails around proposed detention basins and access to the existing trail at the northwest corner of the project. Site amenities will include a walking trail and picnic area. Off-site improvements along Road 2 North will consist of half street improvements to include new pavement, sidewalk, curb and gutter along the property frontage. Off-site improvements along Merritt Lane will consist of new pavement to tie in proposed roadway connection. We are committed to providing these off-site improvements at the onset of construction to improve the Town of Chino Valley's existing infrastructure.

Water and Wastewater

Homes will be served by Town water and sewer infrastructure. The existing 12" water main in Road 2 North currently ends at Road 1 East. Development of the proposed site will consist of extending the existing water main in Road 2 North up to the eastern property boundary. We will construct a new 8" water main that will tie into the new extended main and loop through the site along the internal roadway. Homes will be individually serviced/metered and hydrants will be placed throughout the subdivision to meet CAFMA spacing requirements. The proposed site sewer will tie into the existing 12" sewer main in Road 2 north. Each home will be individually serviced.

Drainage

The proposed site will drain to 2 detention basins. Onsite storm water will be conveyed in the street and proposed storm drain into the detention basins. The basins have been preliminarily sized based on pre vs post calculations. Emergency overflow from the basins will follow existing drainage patterns and outlet to the northwest corner of the site. The entire property is located within FEMA Flood Zone X designation according to FEMA FIRM panel number 04025C1315G, which, indicates the property is located outside the 0.2% chance annual floodplain.

Site Improvements

Site improvements for the proposed neighborhood include:

- 1,900 LF of 12" Water Main extension Road 2 North
- Road 2 North new pavement, a ten foot multi-use sidewalk, curb and gutter along the property frontage
- New pavement along Merritt Lane to tie in proposed roadway connection



SOUTHWEST
Homes

CONTACT



(928) 227 5914



sales@southwesthomesaz.com



www.southwesthomesaz.com



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6c
MEETING DATE: 9/10/2024
CONTACT PERSON: Will Dingee, Assistant Development Services Director
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve Ordinance No. 2024-943, amending the Town of Chino Valley Unified Development Ordinance, Chapter 154, to define metal storage containers, to allow metal storage containers as accessory structures in certain zoning districts, and to add Section 4.32, Metal Storage Containers.

SUMMARY:

This is a request to amend the Town of Chino Valley Unified Development Ordinance (UDO), Chapter 154, by adding a definition of Metal Storage Containers, adding Metal Storage Containers as an Accessory Structure in select zoning districts, and creating Section 4.32 Metal Storage Containers.

Following Council Study Sessions on July 9th and 10th where staff shared the public's desire for allowing Metal Storage Containers without regulations, the Town Council sent the proposal back to the Planning and Zoning Commission with directions to discuss the addition of regulations discussed in the meeting. During the Council Study Sessions, the question was asked by Council regarding compliance with the 2040 General Plan's goals and policies to promote the beautification of State Route 89. At the time of the study session, staff did not have an answer to that question. Staff committed to Council that this would be discussed with the Planning and Zoning Commission.

When the Planning and Zoning Commission met on August 27th, the following language was recommended to the Town Council:

- The creation of a definition for Metal Storage Containers.
- The addition of Metal Storage Containers as an Accessory Structure in the following zoning districts: AR-5, AR-4, SR-2.5, SR-2, SR-1.6, SR-1, CL, CH, and I.
- The addition of Metal Storage Containers as a Conditional Use in MR-1, MHP-4, and OS.
- Regulations for Residential and Agricultural Zoning District:
 - Limit one Metal Storage Container per acre of land up to five containers on a five-acre property or larger with an option of a Conditional Use Permit for additional quantities.
 - Metal Storage Containers will need to be placed at the rear of the property, behind the home.
 - Metal Storage Containers need to adhere to the respective zoning district's setbacks.
 - Metal Storage Containers need to be painted an earth-tone color consistent with the surrounding terrain or the same color as the primary residence. No logos or graffiti.
 - Existing Metal Storage Containers are to be grandfathered except for the painting requirements. All existing containers are to be painted within a year of the ordinance's adoption.

- Regulations for Commercial and Industrial Zoning Districts:
 - Limit of five Metal Storage Containers per acre of land with an option of a Conditional Use Permit for additional quantities.
 - Metal Storage Containers will need to adhere to the respective zoning district's setback, especially next to residential.
 - Metal Storage Containers can only be stacked with an approved Conditional Use Permit.
 - Temporary/Seasonal (six weeks) placement of Metal Storage Containers is permissible with Administrative Approval of a Temporary Use Permit.
 - New Metal Storage Containers are to be painted an earth-tone color consistent with the surrounding terrain, the color of the primary building, or screened from public view. No logos or graffiti.
 - Existing Metal Storage Containers are to be grandfathered.

PREVIOUS ACTION:

On August 27th, 2024, the Planning and Zoning Commission forwarded a recommendation of APPROVAL to the Town Council with a vote of 6-0. For detailed dialog, please see the attached Planning and Zoning Hearing Minutes.

STAFF RECOMMENDATION:

i) Hold a Public Hearing ii) Approve Ordinance No. 2024-943

FISCAL IMPACT?

N/A

ATTACHMENTS:

1.	Attachment 1 - P&Z Minutes
2.	Attachment 2 - ORD - 2024-943
3.	Attachment 3 - P&Z Staff Report

PUBLIC HEARING #D.1 – Case # TA-2024-01 — Metal Storage Containers - A request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, to create regulations for Metal Storage Containers.

Chair Merritt asked if anyone on the Commission had a disclosure to declare regarding this project. **Merritt** stated he had spoken to **Switzer** for about 3 minutes on this item.

Assistant Director, **Will Dingee** presented the staff report and stated this was the third time it was being presented to the Commission this year. He shared there were two open houses held on June 5, 2024, at the direction of Council, and that the staff had presented the public comments from the two study sessions held on July 9th and 10th. He shared that the public did not want any regulations on metal storage containers. When this information was presented to the Town Council, the Council discussed it and sent it back to the Planning and Zoning Commission for consideration of additional regulations. **Dingee** shared a slide that reflected the proposed language and provisions for the new Ordinance, recommended a discussion and public hearing of the Town Council's items of concern, and forwarding of language to the Town Council for their September 10, 2024, meeting.

Merritt asked if anyone on the Commission had questions for Town staff.

Switzer asked what the total attendance was of the two open houses and wanted to know if there was a current building code on commercial properties for the limit of how much of the land could be occupied.

Dingee replied approximately 20 people total attended the open houses. He stated currently commercial land had no maximum lot coverage requirements, but would still need to accommodate for parking, drainage, landscaping and setbacks.

Lineberry stated the lot coverage limits would be addressed with update of the Zoning Code to include around 50% coverage for commercial and industrial land.

Switzer replied he believed the same standards should be applied to metal storage containers.

Merritt stated the residential rules looked good, and the Commission agreed. He stated that on commercial land, the containers would be considered as an accessory structure and would be subject to current Codes for setbacks and lot coverage limits.

Lineberry shared that commercial and industrial zones do not have the same setback rules as residential and that became a point of contention at the Council meeting when a commercial or industrial lot backed up to a residential lot. The Current Code required the commercial or industrial lot to have a setback when backed up to a residential lot. The general practice is that higher density residential had to set back further when backing up to a single-family residential lot.

Merritt stated language would need to be added to the Ordinance to include protection for residential lots for setbacks on metal storage containers when backed up to commercial or industrial lots.

Dingee confirmed the language was already in the proposed Ordinance for setbacks on metal storage containers to adhere to the same standards already set forth for accessory structures.

Merritt discussed no allowance for stacking of containers except through an issuance of a CUP.

The Commission discussed and agreed on the following for the new Ordinance:

- No deviations from the setback standards already in place for accessory structures.
- Containers may not be stacked unless a CUP is applied for and approved by the Commission.
- CL, CH and Industrial Zones need to have a five metal storage containers limit per acre with a CUP available for additional metal storage containers above the 5/acre.

- Metal storage containers shall be painted to match the primary structure on-site, or an earth-tone consistent with the surrounding terrain. Commercial properties can utilize screening instead of paint.
- Temporary/Seasonal (6-week) placement of Metal Storage Containers is permissible with Administrative Approval of a Temporary Use Permit.
- Grandfathering of existing metal storage containers on all properties, with the requirement that containers on residential properties be painted to match the primary structure on-site or an earth-tone, within one year of Ordinance adoption.
- Attaching a non-structural façade to the outside of metal storage containers to match the main structure on the property would not be allowed as it would compromise the integrity of the engineered structure.
- The setback for a container on a commercial or industrial property needs to respect the residential adjacent property.

Switzer wanted the public to know that currently it is illegal to place a container on a property and that Code Enforcement was watching for people who were trying to place any before the Ordinance was adopted by Planning and Zoning.

Lineberry confirmed that Code Enforcement had stepped up to monitor for any new containers and had already had situations where containers had to be removed.

Chair Merritt opened the meeting for public comments.

James Walker asked if no modification included insulation, roofing or matching sheeting on the outside. He was also concerned that it would not be safe to bring in electrical, that some 40-foot containers fall into the confined space air-restricted area and without adequate ventilation the air could become unsafe to breathe. He thought there should be the addition of a 20-amp 110 feed so someone could run a fan if they wanted to.

Cathy Middlested commented that when she lived in another state, she had two 40-foot shipping containers for storage of plumbing equipment, household items, etc. and had lights in her containers. She was in favor of allowing for an electrical outlet on containers for lights or fans.

Chair Merritt closed the public hearing.

Dingee explained that containers were not currently covered by ICC/IBC/IRC construction code standards, and with the next Building Code update planned for early next year, there is an Appendix in the Code that addresses how to treat containers as buildings. Adding electrical, plumbing, etc. would fall under that Appendix to the new building codes, allowing for the Town to then issue permits for alterations to metal storage containers.

Lineberry shared that a building permit could be obtained from the Town for an electrical box on a pedestal outside of the container, which could be used with an extension cord for a portable light or fan.

Walker stated most after-market façade or exterior attachments require drilling, mounting or attaching to the engineered structure and then may not meet the load-bearing requirements, etc. He felt they should not be allowed, that a permitted carport would be a better option. Metal buildings were metal boxes and were usually on a slab. And anyone who brought in electrical to a metal storage container would need to ground it properly. He stated it was not uncommon to set the container on concrete if needed for extra piece of mind. It would be safer to have an electrical contractor come in and put a ground rod in to provide the electrical to the unit.

Merritt thanked him for his input and stated the new Building Codes would address some of these issues. Not everyone knows to ground, and by having a permit, the work would then be inspected for safety.

Penn stated he would be more comfortable with only one 20-foot container allowed on SR-1 and SR-1.6, he wanted to state that for the record.

Motion was made by Switzer, seconded by Pasciak to approve TA-2024-01 as reflected in the Attachment and as amended by the Commission, as presented, subject to the staff report and information provided during the hearing, and the Commission discussion. A roll-call vote was taken, and the motion passed unanimously with a 6-0 vote.

ORDINANCE NO. 2024-943

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE CHINO VALLEY TOWN CODE, TITLE XV, LAND USAGE, CHAPTER 154, UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF CHINO VALLEY, BY AMENDING SECTION 2.2, MEANINGS OF WORDS AND TERMS, TO DEFINE METAL STORAGE CONTAINERS, BY AMENDING SECTION 3, ZONING DISTRICTS, TO ADD METAL STORAGE CONTAINERS AS ACCESSORY STRUCTURES IN CERTAIN ZONING DISTRICTS, AND BY AMENDING SECTION 4, GENERAL REGULATIONS, TO ADD SECTION 4.32, METAL STORAGE CONTAINERS.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the "Town Council") desires to amend the Chino Valley Town Code, Title XV, Land Usage, Chapter 154, Unified Development Ordinance of the Town of Chino Valley (the "UDO"), by amending Section 2.2, Meanings of Words and Terms, to define "metal storage containers," by amending Section 3, Zoning Districts, to add metal storage containers as accessory structures in certain zoning districts, and by amending Section 4, General Regulations, to add Section 4.32, Metal Storage Containers, as set forth herein (the "Text Amendment"); and

WHEREAS, the Town Council has determined that the Text Amendment is not in conflict with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or any other plan; 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 determined that this ordinance, although a "zoning ordinance text amendment of general applicability" as described in A.R.S. § 9-462.01(J), does not, because of its limited applicability to metal storage containers, have any relationship to, or impact on, housing; therefore, the Town Council has determined it is not possible to prepare or consider a housing impact statement regarding the impact of the Text Amendment that includes the information required by A.R.S. § 9-462.01(J)(1)-(3).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The above recitals are hereby incorporated as if fully set forth herein.

Section 2. UDO Section 2.2, Meanings of Words and Terms, is hereby amended by adding the following:

Metal Storage Container. A steel or other metal storage container, sometimes referred to as a cargo container, "CONEX box," or intermodal shipping container, which is independent of any trailer or axles and is commercially produced and designed for the purposes of storage of personal or commercial belongings or products and is generally unmodified except for passive ventilation. This does not include tractor-trailers, boxcars, or vehicle cargo boxes or bodies.

Section 3. UDO Section 3.6, “AR-5” Agricultural/Residential, Subsection (B)(4), and Section 3.8, “SR-2.5”- Single Family Residential, Subsection (B)(5), are hereby amended as follows (~~deletions~~; **additions**):

Customary accessory structures such as barns, corrals, private arenas, training tracks, coops, non-commercial greenhouses up to 600 sq. ft., ~~and storage sheds,~~ **and metal storage containers (See UDO Section 4.32)** for the care and keeping of non-household animals, fowl, produce, farm machinery, and equipment. Accessory structures shall not be permitted prior to the issuance of a building permit for the primary residence.

Section 4. UDO Section 3.7, “AR-4” Agricultural/Residential, Subsection (B)(4), Section 3.9, “SR-2”- Single Family Residential, Subsection (B)(5), Section 3.10, “SR-1.6”- Single Family Residential, Subsection (B)(6), and Section 3.11, “SR-1”- Single Family Residential, Subsection (B)(6), are hereby amended as follows (~~deletions~~; **additions**):

Customary accessory structures such as barns, corrals, private arenas, training tracks, coops, non-commercial greenhouses up to ~~six hundred (600) square feet~~ **600 sq. ft.**, and storage sheds, **and metal storage containers (See UDO Section 4.32)** for the care and keeping of non-household animals, fowl, produce, farm machinery, and equipment. Accessory structures shall not be permitted prior to the issuance of a building permit for the primary residence.

Section 5. UDO Section 3.15, “CL” – Light Commercial, Subsection (B)(23), is hereby amended as follows (~~deletions~~; **additions**):

Customary accessory buildings, ~~and structures,~~ **and metal storage containers (See UDO Section 4.32)**, provided they are incidental to a permitted use. This shall include a single caretaker residence in conjunction ~~within~~ **with** or in the same buildings as a commercial use. Accessory structures shall not be permitted prior to the issuance of a building permit for a commercial building.

Section 6. UDO Section 3.16, “CH” – Commercial Heavy, Subsection (B)(23), is hereby amended as follows (~~deletions~~; **additions**):

Customary accessory buildings, ~~and structures,~~ **and metal storage containers (See UDO Section 4.32)**, provided they are incidental to a permitted use. This shall include a single caretaker residence in conjunction ~~within~~ **with** or in the same buildings as a commercial use.

Section 7. UDO Section 3.17, “I” – Industrial, Subsection (B)(7), is hereby amended as follows (~~deletions~~; **additions**):

Customary accessory buildings, ~~and structures,~~ **and metal storage containers (See UDO Section 4.32)**, provided they are incidental to a permitted use.

Section 8. UDO Section 4, General Regulations, is hereby amended to add the following as Section 4.32, Metal Storage Containers:

4.32 METAL STORAGE CONTAINERS

- A. Purpose. The purpose of this section is to regulate the siting and use of metal storage containers on commercial, industrial, and larger residential lots while ensuring that the storage container is compatible with the zoning and the surrounding area through the reduction of visual prominence by placement, quantity, and paint.
- B. General Requirements. When allowed, Metal Storage Containers shall meet the following development standards:
1. No metal storage container is allowed to be in any district not specifically authorized by this ordinance.
 2. A primary structure is required on the property in order for any metal storage container to be allowed.
 3. Metal storage containers shall be placed at the rear of any residential lot to reduce the visual prominence of the container.
 4. Metal storage containers are for storage only. No human habitation or occupancy is allowed.
 5. No modification of the metal storage container is allowed, other than painting and passive ventilation.
 6. No addition of plumbing or electrical equipment is allowed.
 7. When required to be painted, as set forth in Table 4.32-1, metal storage containers shall be painted a single color, either the color of the primary/closest structure on-site or an earth tone consistent with the surrounding terrain.
 8. Metal storage containers shall not be placed in retention basins or known flood areas.
 9. Metal storage containers shall not occupy any required off-street parking space.
 10. Metal storage containers shall not be stacked without a valid Conditional Use Permit
 11. No graffiti, logos, or signage is allowed on metal storage containers.
 12. Metal storage containers on properties along SR-89 shall be screened from public view or painted.
 13. Temporary/seasonal (6-week) placement of metal storage containers in commercial and industrial zones is permissible with Administrative Approval of a Temporary Use Permit).
 14. All metal storage containers placed on residentially zoned properties shall be painted. Those placed before September 11, 2024, must be painted no later than September 10, 2025, and those placed on or after September 11, 2024, must be painted within one year of placement.

- C. Grandfathering. Metal storage containers existing in Chino Valley before September 11, 2024, are considered “grandfathered” and not retroactively required to comply with these regulations, with the exception of residential painting. Any containers placed after September 11, 2024, must comply with the standards in Section 4.32.
- D. Containers by Zoning District. Table 4.32-1 below sets forth the number of metal storage containers allowed per zoning district.

Table 4.32-1

Zoning District	Containers* Per Acre	Max. #	Paint Required	If Adjacent to SR-89: Paint/Screening Required
AR-36	1	5**	X	X
AR-5	1	5**	X	X
AR-4	1	4**	X	X
SR-2.5	1	2**	X	X
SR-2	1	2**	X	X
SR-1.6	1	1**	X	X
SR-1	1	1**	X	X
PL	1	1**	X	X
SR-0.16	Prohibited			
SF-24,000	Prohibited			
SF-12,000	Prohibited			
PAD	Prohibited			
MR-1	CUP			X
MHP-4	CUP			X
OS	CUP			X
CL	5		Along 89	X
CH	5		Along 89	X
I	5		Along 89	X
* All containers are limited to 40' in length. Two 20' containers can be used in place of one 40' container in all zones where containers are permitted.				
** For properties larger than the minimum acreage in the zone: for every five acres above the base acreage in the zone, an additional 40' container is allowed.				
For all zones: Contractors and Homeowners may use metal storage containers in any zone for temporary storage of construction equipment, materials, or personal household items during construction that is authorized by a Town of Chino Valley building permit. The containers are allowed for the duration of the building permit				
Property owners requesting more than the maximum number of containers may apply for a CUP.				
No new Metal Storage Containers permitted in HMU-designated areas of the 2040 General Plan.				

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Amendments adopted herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. 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 10th day of September 2024.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld P.L.C.

I hereby certify that the foregoing Ordinance No. 2024-943 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on September 10, 2024, 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



TOWN OF CHINO VALLEY
Planning Commission Staff Report
August 27, 2024
File Number TA-2024-01
Text Amendment

PROJECT DESCRIPTION

A request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by adding a definition of Metal Storage Containers; Metal Storage Containers as an Accessory Structure in select zoning districts and Section 4.32 Metal Storage Containers.

The Unified Development Ordinance states that the UDO “may be amended, supplemented, changed, modified or repealed when deemed necessary to best serve the public interest, health, comfort, convenience, safety and general welfare of the citizens of the Town.” This current text amendment request from staff, is deemed necessary to best serve the public convenience and property safety. The proposal is to add a section to the General Regulations that defines metal storage containers and identifies which zones permit metal storage containers, how many containers are allowed on each lot, and other required provisions to ensure compatibility on-site and with neighboring properties.

The Planning Commission last reviewed this item on March 5th, 2024, at which time a recommendation for approval was forwarded to the Town Council with a 5-2 vote. This item was presented to the Town Council on March 26th and continued to April 4th, when the Council directed staff to collect additional public input on the proposed amendment. In response, two open houses were held by staff on June 5th: one focused on the residential aspects of the proposed amendment, and the other on the commercial aspects.

The findings from these open houses were presented to the Town Council on July 9th (residential findings) and July 10th (commercial findings). As a result, the Council directed staff to return the proposed text amendment to the Planning Commission to forward a recommendation to the Council after discussing the following:

In Residential and Agricultural Zoning Districts:

- Quantity of containers on a single property.
- Placement of the containers, specifically in the rear yard.
- Compliance of containers with the applicable zoning district's rear and side yard setbacks.
- Requirement for containers to be free of graffiti and logos.
- Requirement for containers to be painted a single color.
- Grandfathering of all containers existing at the time of the ordinance's adoption.

In Commercial and Industrial Zoning Districts:

- Single color (no graffiti and logos)
- Maximum height and potential stacking of containers.
- Setbacks for Metal Storage Containers
- Grandfathering of all containers existing at the time of the ordinance's adoption.

In addition, Council questioned how to make containers comply with the new direction given by the 2040 General Plan for State Route 89.

The changes requested by Council can largely be summarized in the below table:

Table 4.32-1

ZONING DISTRICT	CONTAINERS* PER ACRE	MAX. #	PAINT	ADJACENT TO SR-89? – SCREENING OR PAINTING
AR-36	1	5**	X	X
AR-5	1	5**	X	X
AR-4	1	4**	X	X
SR-2.5	1	2**	X	X
SR-2	1	2**	X	X
SR-1.6	1	1**	X	X
SR-1	1	1**	X	X
PL	1	1**	X	X
SR-0.16	Prohibited			
SF-24,000	Prohibited			
SF-12,000	Prohibited			
PAD	Prohibited			
MR-1	CUP			X
MHP-4	CUP			X
OS	CUP			X
CL	No Limit		Along 89	X
CH	No Limit		Along 89	X
I	No Limit		Along 89	X

* All containers are limited to 40' in length. Two 20' containers can be used in place of one 40' container in all zones where containers are permitted.

** For properties larger than the minimum acreage in the zone: for every five acres above the base acreage in the zone, an additional 40' container is allowed.

For all zones: Contractors and Homeowners may use metal storage containers in any zone for temporary storage of construction equipment, materials, or personal household items during construction that is authorized by a Town of Chino Valley building permit. The containers are allowed for the duration of the building permit

Property owners requesting more than the maximum number of containers may apply for a CUP.

No new Metal Storage Containers permitted in HMU designated areas of the 2040 General Plan.

As a primer for our discussion, staff have edited the previous language in response to the opinions expressed by the Town Council during the July 9th and 10th meetings and found in Attachment 1. During staffs presentation, we will clarify the changes from the original language to the language being presented. Additional attachments include:

- The Town Council Staff Report that was presented on March 26th
- The original unedited text amendment language presented to the Commission on March 5th
- The original Planning and Zoning Staff Report presented on March 5th.

Staff Recommendation:

Staff recommends **APPROVAL** of the text amendment to. amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by adding a definition of Metal Storage Containers; Metal Storage Containers as an Accessory Structure in select zoning districts and Section 4.32 Metal Storage Containers.

**SUGGESTED
COMMISSION MOTION:**

Move to **APPROVE** Text Amendment TA-2024-01 as reflected in Attachment 1 as amended by the Commission, subject to the staff report, information provided during this hearing, and the Planning Commission discussion.

Effect of the Approval:

By approving the Text Amendment, the Planning and Zoning Commission is recommending that the Town Council approve the text amendment to provide the ability to place metal storage containers (cargo containers/conex boxes) on certain zoned and sized parcels of land in Chino Valley, subject to specific criteria.

Prepared By:

Date: August 14, 2024



Will Dingee
Assistant Director
Development Services
wdingee@chinoaz.net
(928)636-3472

ORDINANCE NO. 2024-943

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE CHINO VALLEY TOWN CODE, TITLE XV, LAND USAGE, CHAPTER 154, UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF CHINO VALLEY, BY ADDING A NEW SECTION 4.32, METAL STORAGE CONTAINERS.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the “Town Council”) desires to amend the Chino Valley Town Code, Title XV, Land Usage, Chapter 154, Unified Development Ordinance of the Town of Chino Valley (the “UDO”), by adding a new section 4.32, Metal Storage Containers, as set forth herein (the “Text Amendment”); and

WHEREAS, the Town Council has determined that the Text Amendment is not in conflict with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or any other plan; 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 determined that this ordinance, although a “zoning ordinance text amendment of general applicability” as described in A.R.S. § 9-462.01(J), does not, because of its limited applicability to metal storage containers, have any relationship to, or impact on, housing; therefore, the Town Council has determined it is not possible to prepare or consider a housing impact statement regarding the impact of the Text Amendment that includes the information required by A.R.S. § 9-462.01(J)(1)-(3).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The above recitals are hereby incorporated as if fully set forth herein.

Section 2. The UDO is hereby amended to add: a definition of Metal Storage Containers; Metal Storage Containers as an Accessory Structure in select zoning districts, and section 4.32 to read as follows:

2.2 – DEFINITIONS

Metal Storage Container – A steel or other metal storage container sometimes referred to as a cargo container or “CONEX box”, which is independent of any trailer or axles, and is commercially produced and designed for the purposes of storage of personal or commercial belongings/products and is generally unmodified except for passive ventilation. This does not include tractor-trailers, boxcars, or vehicle cargo box/body.

3.6 – “AR-5” AGRICULTURAL/RESIDENTIAL

4. Customary accessory **structures** such as barns, corrals, **private arenas**, training tracks, coops, non- **commercial greenhouses** up to 600 sq. ft., storage sheds and Metal Storage Containers (See UDO Section 4.32) for the care and keeping of non-household animals, fowl, produce, farm machinery and equipment. Accessory **structures** shall not be permitted prior to the issuance of a **building permit** for the primary residence.

3.7 – “AR-4” AGRICULTURAL/RESIDENTIAL

4. Customary accessory **structures** such as barns, corrals, **private arenas**, training tracks, coops, non- **commercial greenhouses** up to 600 sq. ft., storage sheds and Metal Storage Containers (See UDO Section 4.32) for the care and keeping of non-household animals, fowl, produce, farm machinery and equipment. Accessory **structures** shall not be permitted prior to the issuance of a **building permit** for the primary reside

3.8 – “SR-2.5”- SINGLE FAMILY RESIDENTIAL

5. Customary accessory **structures** such as barns, corrals, **private arenas**, training tracks, coops, non- **commercial greenhouses** up to 600 sq. ft., storage sheds and Metal Storage Containers (See UDO Section 4.32) for the care and keeping of non-household animals, fowl, produce, farm machinery and equipment. Accessory **structures** shall not be permitted prior to the issuance of a **building permit** for the primary reside

3.9 – “SR-2”- SINGLE FAMILY RESIDENTIAL

5. Customary accessory **structures** such as barns, corrals, **private arenas**, training tracks, coops, non- **commercial greenhouses** up to 600 sq. ft., storage sheds and Metal Storage Containers (See UDO Section 4.32) for the care and keeping of non-household animals, fowl, produce, farm machinery and equipment. Accessory **structures** shall not be permitted prior to the issuance of a **building permit** for the primary reside

3.10 – “SR-1.6”- SINGLE FAMILY RESIDENTIAL

6. Customary accessory **structures** such as barns, corrals, **private arenas**, training tracks, coops, non- **commercial greenhouses** up to 600 sq. ft., storage sheds and Metal Storage Containers (See UDO Section 4.32) for the care and keeping of non-household animals, fowl, produce, farm machinery and equipment. Accessory **structures** shall not be permitted prior to the issuance of a **building permit** for the primary reside

3.11 – “SR-1”- SINGLE FAMILY RESIDENTIAL

6. Customary accessory **structures** such as barns, corrals, **private arenas**, training tracks, coops, non- **commercial greenhouses** up to 600 sq. ft., storage sheds and Metal Storage Containers (See UDO Section 4.32) for the care and keeping of non-household animals, fowl, produce, farm machinery and equipment. Accessory **structures** shall not be permitted prior to the issuance of a **building permit** for the primary reside.

3.15 "CL" – LIGHT COMMERCIAL

23. Customary accessory buildings, structures, and Metal Storage Containers (See UDO Section 4.32) provided they are incidental to a permitted use. This shall include a single caretaker residence in conjunction within or in the same buildings as a commercial use. Accessory structures shall not be permitted prior to the issuance of a building permit for a commercial building.

3.16 "CH" – COMMERCIAL HEAVY

14. Customary accessory buildings, structures, and Metal Storage Containers (See UDO Section 4.32) provided they are incidental to a permitted use. This shall include a single caretaker residence in conjunction within or in the same buildings as a commercial use

3.17 "I" – INDUSTRIAL

7. Customary accessory buildings, structures, and Metal Storage Containers (See UDO Section 4.32) provided they are incidental to a permitted use.

4.32 METAL STORAGE CONTAINERS

- A. Purpose. The purpose of this section is to regulate the siting and use of metal storage containers (also known as intermodal shipping containers or cargo containers) on commercial, industrial, and larger residential lots, while ensuring that the storage container is compatible with the zoning and the surrounding area through reduction of visual prominence by placement, quantity, and paint.
- B. General Requirements. When allowed, Metal Storage Containers shall meet the following development standards:
- (1) No Metal Storage Container is allowed to be in any district not specifically authorized by this ordinance.
 - (2) A primary structure is required on the property in order for any Metal Storage Container to be allowed.
 - (3) Metal Storage Containers shall be placed at the rear of any residential lot to reduce the visual prominence of the container.
 - (4) Metal Storage Containers are for storage only. No human habitation or occupancy is allowed.
 - (5) No modification of the Metal Storage Container is allowed, other than painting and passive ventilation.
 - (6) No addition of plumbing or electrical equipment is allowed.
 - (7) When required to be painted, Metal Storage Containers shall be painted a single color, either the color of the primary/closest structure on-site, or an earth-tone consistent with the surrounding terrain.

- (8) Metal Storage Containers shall not be placed in retention basins or known flood areas.
- (9) Metal Storage Containers shall not occupy any required off-street parking space.
- (10) Metal Storage Containers shall not be stacked.
- (11) No graffiti, logos, or signage is allowed on Metal Storage Containers.
- (12) Metal Storage Containers on properties along SR 89 and properties on corner lots shall be screened from public view.

C. Grandfathering – As of the date of the adopting of this ordinance, all metal storage containers existing in Chino Valley are considered “Grandfathered” and not retroactively required to comply with these regulations. Any containers placed after the adoption of this ordinance (insert date) must comply with standards in Section 4.32.

D. Containers by Zoning District. Table 4.32-1 below sets forth the number of metal storage containers allowed per zoning district.

Table 4.32-1

ZONING DISTRICT	CONTAINERS* PER ACRE	MAX. #	PAINT	ADJACENT TO SR-89? – SCREENING OR PAINTING
AR-36	1	5**	X	X
AR-5	1	5**	X	X
AR-4	1	4**	X	X
SR-2.5	1	2**	X	X
SR-2	1	2**	X	X
SR-1.6	1	1**	X	X
SR-1	1	1**	X	X
PL	1	1**	X	X
SR-0.16	Prohibited			
SF-24,000	Prohibited			
SF-12,000	Prohibited			
PAD	Prohibited			
MR-1	CUP			X
MHP-4	CUP			X
OS	CUP			X
CL	No Limit		Along 89	X
CH	No Limit		Along 89	X
I	No Limit		Along 89	X

* All containers are limited to 40' in length. Two 20' containers can be used in place of one 40' container in all zones where containers are permitted.
** For properties larger than the minimum acreage in the zone: for every five acres above the base acreage in the zone, an additional 40' container is allowed.
<u>For all zones:</u> Contractors and Homeowners may use metal storage containers in any zone for temporary storage of construction equipment, materials, or personal household items during construction that is authorized by a Town of Chino Valley building permit. The containers are allowed for the duration of the building permit
Property owners requesting more than the maximum number of containers may apply for a CUP.
No new Metal Storage Containers permitted in HMU designated areas of the 2040 General Plan.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Amendments adopted herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. 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 10th day of September 2024.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld P.L.C.

I hereby certify that the foregoing Ordinance No. 2024-943 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on April 9, 2024, 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

PREVIOUS DRAFT
LANGUAGE



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6e
MEETING DATE: 3/26/2024
CONTACT PERSON: Laurie Lineberry, Development Services Director
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve Ordinance No. 2024-943 to amend the Unified Development Ordinance, to create Section 4.32 - Metal Storage Containers.

SUMMARY:

This is a request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by adding Section 4.32 regarding Metal Storage Containers.

PREVIOUS ACTION:

On March 5, 2024, the Planning and Zoning Commission forwarded a recommendation of approval for TA-2024-01 to Town Council with a 5-2 vote. For the text amendment language and background, please refer to the Planning and Zoning Staff Report. For a detailed account of what was discussed at the commission meeting, please refer to the attached Planning and Zoning minutes.

STAFF RECOMMENDATION:

i) Hold a public hearing ii) Approve Ordinance No. 2024-943

FISCAL IMPACT?

N/A

ATTACHMENTS:

-
- | | |
|----|--|
| 1. | ORD - 2024-943 - UDO Text Amendment - Metal Storage Containers |
| 2. | Attachment 1 - P&Z Staff Report |
| 3. | Attachment 2 - P&Z Minutes |
| 4. | Attachment 3 - Ord for TA |
-

ORDINANCE NO. 2024-943

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE CHINO VALLEY TOWN CODE, TITLE XV, LAND USAGE, CHAPTER 154, UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF CHINO VALLEY, BY ADDING A NEW SECTION 4.32, METAL STORAGE CONTAINERS.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the “Town Council”) desires to amend the Chino Valley Town Code, Title XV, Land Usage, Chapter 154, Unified Development Ordinance of the Town of Chino Valley (the “UDO”), by adding a new section 4.32, Metal Storage Containers, as set forth herein (the “Text Amendment”); and

WHEREAS, the Town Council has determined that the Text Amendment is not in conflict with the Town of Chino Valley General Plan and any applicable specific area plan, neighborhood plan, or any other plan; 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 determined that this ordinance, although a “zoning ordinance text amendment of general applicability” as described in A.R.S. § 9-462.01(J), does not, because of its limited applicability to metal storage containers, have any relationship to, or impact on, housing; therefore, the Town Council has determined it is not possible to prepare or consider a housing impact statement regarding the impact of the Text Amendment that includes the information required by A.R.S. § 9-462.01(J)(1)-(3).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The above recitals are hereby incorporated as if fully set forth herein.

Section 2. The UDO is hereby amended to add a new section 4.32 to read as follows:

4.32 Metal Storage Containers

A. PURPOSE

The purpose of this section is to establish regulations for the siting of metal storage containers—otherwise known as intermodal shipping containers or cargo containers. As used in this section, “metal storage containers” and “containers” are synonymous.

B. GENERAL REQUIREMENTS

A metal storage container is only permitted as an Accessory Use. The siting of metal storage containers and the number of such containers allowed must conform with this section 4.32.

C. DEVELOPMENT STANDARDS

1. Where allowed, per Table 4.32-1 below, metal storage containers must conform to the following development standards:

- a. An over-the-counter administrative land use permit is required for any containers to be allowed, and such land use permit must be obtained prior to placing a container on any property.
- b. Containers are for storage only. No human habitation or occupancy is allowed.
- c. A primary use is required on the property for any container to be allowed.
- d. Modifications.
 - (i) No modification of the metal storage container, other than painting, is allowed.
 - (ii) No addition of plumbing or electrical equipment is allowed.
 - (iii) Any modification or alteration to a container, including but not limited to cutting any openings, adding electrical or plumbing or ventilation, adding a roof structure, or making the unit habitable in any way, reclassifies the container from an Accessory Use that is allowed by this Code, to a structure needing a Building Permit, which requires meeting all Building Codes and Engineering requirements for structures.
- e. Containers must meet all of the same setback requirements that are required for the primary structure on the property.
- f. Containers must be placed at the rear of the lot to reduce the visual prominence of the container.
- g. Containers must be painted a single color within 15 days of placement. The container color must be either the color of the primary/closest structure on-site or an earth tone consistent with the surrounding terrain.
- h. Containers must not be placed in retention basins or known flood areas.
- i. Containers must not occupy any required off-street parking space.
- j. Containers must not be stacked.
- k. No graffiti or signage is allowed on containers.
- l. Containers on properties along SR 89 and on corner lots must be screened from public view.
- m. Contractors may use containers in any zone for temporary storage of equipment and materials at a construction site during construction that is authorized by a Town of Chino Valley Building Permit. Such containers are allowed only for the duration of the Building Permit.
- n. Homeowners may use containers for temporary storage of equipment and materials during construction that is authorized by a Town of Chino Valley Building Permit. Such containers are allowed only for the duration of the Building Permit.

- o. No container is allowed to be in any zoning district not specifically authorized by this section.

D. CONTAINERS BY ZONING DISTRICT.

Table 4.32-1 below sets forth the number of metal storage containers allowed per zoning district.

Table 4.32-1 Containers by Zoning District		
Zoning District	Containers* Per Acre	Maximum Number
AR-36 Agricultural/Residential	1/acre	5 containers max.**
AR-5 Agricultural/Residential	1/acre	5 containers max.**
AR-4 Agricultural/Residential	1/acre	4 containers max.**
SR-2.5 Single-Family Residential	1/acre	2 containers max.**
SR-2 Single-Family Residential	1/acre	2 containers max.**
SR-1.6 Single-Family Residential	1/acre	1 container max.**
SR-1 Single-Family Residential	1/acre	1 container max.**
SR-0.16 Single-Family Residential	Prohibited	
SF-24,000 Single-Family Residential	Prohibited	
SF-12,000 Single-Family Residential	Prohibited	
MR-1 Multiple Family Residential – 1 acre min.	Requires a CUP	
MHP-4 Mobile Home Parks – 4 acre min.	Requires a CUP	
Along SR-89 CL – Commercial Light CH – Commercial Heavy I – Industrial	1/acre	1 container
Not on SR-89 CL – Commercial Light CH – Commercial Heavy I – Industrial	2/acre	2 containers
PL - Public Land	1/acre	1 container max.**
OS - Open Space/Resource Conservation	Requires a CUP	
PAD	Prohibited	
* All containers are limited to 40’ in length.		
** For properties larger than the minimum acreage in the zone: for every five acres above the base acreage in the zone, an additional 40’ container is allowed.		
Two 20-foot containers can be used in place of one 40’ container in all zones where containers are permitted.		
Property owners requesting more than the maximum number of containers can apply for a CUP.		

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Amendments adopted herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. 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.

Section 5. Except as otherwise provided, any person found responsible for violating any provisions of this Ordinance shall be guilty of a civil violation, punishable by imposition of a civil sanction not to exceed \$500.00. Each day a violation continues shall be considered a separate violation. A person who commits a violation of this Ordinance after previously having been found responsible for committing two or more civil violations of this Ordinance within a 24-month period, whether by admission, by payment of the sanction, by default, or by judgment after hearing, shall be guilty of a class one misdemeanor.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 26th day of March, 2024.

Jack W. Miller, Mayor

ATTEST:

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld P.L.C.

I hereby certify that the foregoing Ordinance No. 2024-943 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on March 26, 2024, 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



TOWN OF CHINO VALLEY
Planning Commission Staff Report
March 5, 2024
File Number TA-2024-01
Text Amendment

PROJECT DESCRIPTION

A request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by adding Section 4.32 Metal Storage Containers.

Staff Analysis:

Metal Storage Containers continue to be an item of demand for securing personal items on larger parcels of land in Chino Valley.

The Unified Development Ordinance states that the UDO “may be amended, supplemented, changed, modified or repealed when deemed necessary to best serve the public interest, health, comfort, convenience, safety and general welfare of the citizens of the Town.” This current text amendment request from staff, is deemed necessary to best serve the public convenience and property safety. The proposal is to add a section to the General Regulations that defines metal storage containers and identifies which zones permit metal storage containers, how many containers are allowed on each lot, and other required provisions to ensure compatibility on-site and with neighboring properties.

The use of metal storage containers has been discussed between staff and Council for a number of years; most recently in 2020 and 2021. During that time period, the discussion centered around considering these units “structures”. There was much discussion involving a variety of ways to determine how much storage would be allowed on each individual lot with an effort to reduce over-regulation and to be fair in the application of the new rules.

Consideration of the use of Metal Storage Containers by the UDO Subcommittee, the Planning and Zoning Commission, and the Town Council included the following direction/discussion items during 2020 and 2021:

- **Number and Size:** How to determine the number and size of Containers on parcels:
 - SR-1 or greater with a one acre minimum.
 - Agricultural zones to have two Containers and residential zones to have one container.
 - Containers in commercial zones based on the square footage of the commercial building on site.
 - Number of Containers based on the parcel size.
 - By length or storage amounts, based on zoning classification.
 - Commercial properties - max.one-400 square foot Container per property.
 - 160 square feet of storage container for each 1000 square feet of building on commercial property.
 - For SR-1, SR-2, SR-2.5 zones: 1-20’ Container. For AR-4, AR-5 zones: 2-40’ Containers.
 - Allow up to 50% of the lot in Containers

- Location: Where the Containers should be allowed to be placed on the lot:
 - Behind the main structure on-site.
 - Screened from public view.
 - In the rear of the parcel.
 - Anywhere.
 - 10' from property lines.
 - Same setbacks as primary structure.
 - Treat Containers like a permanent structure in regard to setbacks.
 - If in a special flood hazard or sheet flow area, units need to be anchored.
- Appearance: Container appearance/visibility:
 - Require Containers to be painted to match the main building or home on the lot.
 - Screen with walls or landscaping.
 - Buffer from neighboring properties.
 - No stacking Containers.
- Process: What review and approval process(es) should be required to place a Container on a lot?
 - CUP – Containers not a listed use in the code, so a CUP is the way to allow them.
 - Site Plan review – a more in-depth process to access the entire lot.
 - Land Use Permit - for setbacks, to ensure initial placement location is right for records/tracking,
 - Building Permit: required for all Containers as Containers are structures; only required for Containers over 200 square feet; required only if the Container is modified; required if connected to any other structure; required if modified for animal use.
- Alterations: Should alterations to the Containers be allowed:
 - Not allow any Container to be modified.
 - Allow ventilation but no plumbing.
 - Any Container, regardless of size, that was modified in any way other than painting, would require a building permit.
 - Not allow electricity or plumbing in any Container.
 - Electrical service for lighting with a building permit.
 - No electrical permits, as there were lighting options available that did not require electricity to the Containers.
- Include a sunset clause in the ordinance.
- Create a sticker system that shows the Container had gone through the appropriate process (which would make it easier for code enforcement).
- A Primary Use is required on-site for a Container, except for contractor lots in Heavy Commercial.
- Temporary containers are allowed with the issuance of a Building Permit and must be removed at Building Permit Final.

These dialog points reflect many viewpoints, some conflicting, on how best to approach the number, review, approval, and placement of Metal Storage Containers.

The prior years' discussions centered on Containers being structures. When Containers are considered structures, they are required to meet all the Building Codes, including being set on foundations, using tie-downs, calculating snow loads, and all the rest of the reviews and requirements that goes along with that designation, including building permit review times and permit fees. This pathway of considering Containers structures complicates a relatively simple solution.

Current staff thought, is to consider the Containers solely storage containers, as an Accessory Use. If we do that, and with NO alterations to the Container, this review and approval can be an over-the-counter same-day approval. Any alteration shifts the Container to the status of a structure and would be required to meet all Building Code and Engineering requirements for placement.

Development Standards

When allowed, Metal Storage Containers shall meet the following development standards:

- (1) Metal Storage Containers are for storage only. No human habitation or occupancy is allowed.
- (2) A primary use is required on the property in order for any Metal Storage Container to be allowed.
- (3) No modification of the Metal Storage Container is allowed, other than painting.
- (4) No addition of plumbing or electrical equipment is allowed.
- (5) Metal Storage Containers shall meet all setback requirements for the primary structure in the district.
- (6) Metal Storage Containers shall be placed at the rear of the lot to reduce the visual prominence of the container.
- (7) Metal Storage Containers shall be painted a single color within 15 days of placement. The container color shall be either the color of the primary/closest structure on-site, or an earth-tone consistent with the surrounding terrain.
- (8) Metal Storage Containers shall not be placed in retention basins or known flood areas.
- (9) Metal Storage Containers shall not occupy any required off-street parking space.
- (10) Metal Storage Containers shall not be stacked.
- (11) No graffiti or signage is allowed on Metal Storage Containers.
- (12) Metal Storage Containers on properties along SR 89 and properties on corner lots shall be screened from public view.
- (13) Contractors may use metal storage containers in any zone for temporary storage of equipment and/or materials at a construction site during construction that is authorized by a Town of Chino Valley building permit. The containers are allowed for the duration of the building permit.
- (14) Homeowners may use cargo containers for temporary storage of equipment and/or materials during construction that is authorized by a Town of Chino Valley building permit. The containers are allowed for the duration of the building permit.
- (15) No metal storage container is allowed to be in any district not specifically authorized by this ordinance.
- (16) An over-the-counter Land Use Permit is required.
- (17) Any alteration to a Metal Storage Container, including but not limited to cutting any openings, adding electrical or plumbing or ventilation, adding a roof structure, or making the unit habitable in any way, reclassifies the Container from an Accessory Use that is allowed by this code, to a structure needing a Building Permit, which requires meeting all Building Codes and Engineering requirements for structures.

It is important to take time and to apply thoughtful rules. With zoning, it is always wise to start small and increase incrementally. Once established, it is very challenging to pull back/reduce/change zoning rules to allow less. Therefore, staff will generally recommend a more cautious code change in order for the proposed change to take hold and for any possible impacts to be felt within the community. Impacts can be immediate, or they may take years.

Staff is recommending the following number of Containers per Zoning District:

Containers by Zoning District

Table 1

Zoning District	Containers per Acre	
AR-36 Agricultural/Residential	1-40'/acre	5 containers max.*
AR-5 Agricultural/Residential	1-40'/acre	5 containers max.*
AR-4 Agricultural/Residential	1-40'/acre	4 containers max.*
SR-2.5 Single Family Residential	1-40'/acre	2 containers max.*
SR-2 Single Family Residential	1-40'/acre	2 containers max.*
SR-1.6 Single Family Residential	1-40'/acre	1 container max.*
SR-1 Single Family Residential	1-40'/acre	1 container max.*
SF-24,000 Single Family Residential	Prohibited	
SF-12,000 Single Family Residential	Prohibited	
MR-1 Multiple Family Residential – 1 acre min	CUP	
MHP-4 Mobile Home Parks - 4 AC min.	CUP	
Along SR-89 CL – Commercial Light CH – Commercial Heavy I - Industrial	1-40'/acre	1 container
Not on SR-89 CL – Commercial Light CH – Commercial Heavy I - Industrial	2-40'/acre	2 containers
PL – Public Land	1-40'/acre	1 container max.*
OS - Open Space/Resource Conservation	CUP	
SR-0.16 Single Family Residential	Prohibited	
PAD	Prohibited	

* - For properties larger than the minimum acreage in the zone: for every 5 acres above the base acreage in the zone, an additional 40' container is allowed.

Two 20-foot containers can be used in place of one 40' container in all zones where permitted.

Property owners requesting more than the maximum # of containers can submit for a CUP.

Staff Recommendation:

Staff recommends **APPROVAL** of the text amendment to create Section 4.32 Metal Storage Containers, as reflected in the 17 Development Standards listed on page 3, and in Table 1, Containers by Zoning District, above.

**SUGGESTED
COMMISSION MOTION:**

Move to **APPROVE** Text Amendment TA-2024-01 as reflected in the 17 Development Standards listed on page 3, and in Table 1 “Containers by Zoning District”, as amended by the Commission, subject to the staff report, information provided during this hearing, and the Planning Commission discussion.

Effect of the Approval:

By approving the Text Amendment, the Planning and Zoning Commission is recommending that the Town Council approve the text amendment to provide the ability to place metal storage containers (cargo containers/conex boxes) on certain zoned and sized parcels of land in Chino Valley, subject to specific criteria.

Prepared By:

Laurie Lineberry, AICP
Development Services Director
llineberry@chinoaz.net
(928)636-4427, x1217

Date: February 20, 2024

March 5th, 2024

Minutes - Planning and Zoning

PUBLIC HEARING #D.3 – Case # TA-2024-01 — Metal Storage Containers - A request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154 Section 4 General Regulations, to create Section 4.32 – Metal Storage Containers.

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. There were none.

Development Service Director, **Laurie Lineberry** presented the staff report and stated that the Commission discussed this item at their February 6, 2024 study session and had been discussed for a number of years. Staff had researched minutes from all the Planning & Zoning Commission meetings, Town Council study sessions, and UDO Sub Committee meetings and provided the full range of comments and suggestions made at all of those meetings. They were reflected in the bullet points on page 1 and 2 of the staff report. Staff looked at Yavapai County standards per zoning designations. Counties generally have lesser standards than Towns and Cities. Staff's recommendations, considering all the comments on page 1 and 2 of the staff report, were shown on the chart. What was being proposed by staff was more lenient than the County standards. There were two directions the Town could take in considering the approval of cargo containers: 1. Consider them a structure and permit them like any other building in the Town, allowing alterations to the containers, or, 2. Consider them solely a metal storage container and not allow alterations. If not altered, building permits would not be needed. If someone were to alter the container, they would need a building permit, and the container would then be required to meet all building codes, engineering standards, electrical, etc. If allowed just as a metal storage container the request for a container would be processed by a simple land use permit, an over-the-counter process and staff would go out and check for setbacks and painting after 15 days. **Lineberry** went over the development standards on the staff report and stated the item would go to Town Counsel at end of the month.

Chair Merritt asked if the Commission had any questions for staff.

Switzer stated he had a recommendation, since the County normally has less restrictions, that on 1-acre and 1.6-acre parcels within the Town, to only allow one 10 or 20-foot container. He felt that a 40-foot container was pretty big for a one-acre lot.

Lineberry stated it could be a motion the Commission could make to change that standard and that staff would pass it on to the Town Council as the Commission's recommendation.

Penn stated he believed for 1-acre lots, no storage container should be allowed.

Lineberry stated that the Commission needed to discuss it, and whatever the Commission agreed to as a group, that would be what the staff would bring forward to Town Counsel.

Penn stated he believed even on a 2-acre lot, two containers was overkill; one container was more than sufficient, aesthetically, he felt two containers was too much.

Switzer stated he would adjust his as well, one 10-foot container on 1-acre, one 20-foot container on 1.6-acre and one 40-foot on 2-acres.

Meadors stated she liked the draft as written.

Chair Merritt opened the meeting for public comments. There were none.

Chair Merritt closed the public hearing.

Motion was made by Meadors, seconded by Pasciak to approve TA-2024-01, as presented,

subject to the staff report and information provided during the hearing.

Merritt recapped the changes proposed earlier in the meeting: SR-1 one 10-foot container, SR-1.6 one 20-foot container, SR-2 one 40-foot container.

Switzer stated if Commission agreed with those, then he would propose altering AR-4 as well.

Merritt suggested a maximum of three containers, and more would need to be discussed before allowed.

Switzer stated more than these could ask for a CUP.

Lineberry concurred about the CUP.

Merritt stated he agreed but does not like a lot of CUP's. To recap the discussion, SR-1 would get one 10-foot container, SR-1.6 would get one 20-foot container, SR-2 would get one 40-foot container, SR-2.5 would get two max 40-foot containers, SR-4 would get three max 40-foot containers, higher acres would get a maximum of five containers with possibility of more through a CUP. The Commission agreed.

Lineberry stated she made notes of all the changes.

Meadors stated she wanted the discussion as an amendment and wanted a vote on the amendment.

Merritt called for a Motion on the amendments as listed.

Switzer stated he believes the SR-1 and SR-1.6 should be allowed one 20-foot container.

Merritt - to recap again, SR-1 would get one 20-foot container, SR-1.6 would get one 20-foot container, SR-2 would get one 40-foot container, SR-2.5 would get two max 40-foot containers, SR-4 would get three max 40-foot containers.

Pasciak stated he believed what staff originally proposed was adequate.

Merritt asked for a consensus.

Zamudio stated he liked what was written by staff, that it should stay the same.

Switzer stated he liked the amendments.

Meadors stated as presented by staff.

Pasciak stated as presented by staff.

Penn stated on SR-2.5, he would like to see one 40-foot container max.

Welker stated as presented by staff.

Merritt stated he believed what staff presented was adequate.

Merritt suggested sticking with the staff proposal and to let the Town Counsel massage it more, if they chose.

A vote was taken and the motion passed with a 5-2 vote with Switzer and Penn voting nay, for reasons stated in the discussion of the case.



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6d
MEETING DATE: 9/10/2024
CONTACT PERSON: Frank Marbury, Public Works Director/Town Engineer
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Consideration and possible action to allow a policy deviation for offsite improvements to South Road 1 West adjacent to the proposed Homestead Subdivision.

SUMMARY:

The 15 x 1 acre dry-lot Homestead Subdivision is located at the north-east corner of South Road 1 West and West Road 3 South. As part of the Preliminary Plat approval, condition of approval #8 reads as follows:

8. The owner shall construct half-width improvements on the east half of South Road 1 West along the subdivision's frontage per the Town's Urban and Rural Roadways map as follows: The improvements shall include, at a minimum, a 12-foot paved through lane, a 5-foot paved shoulder, and a roadside ditch.

During the Technical Review process of the Civil Improvement Plans, it was recognized that the existing roadway didn't meet the American Association of State Highway and Transportation Officials (AASHTO) clear zone standards relative to existing dry utilities (which include transmission lines) on the east side of South Road 1 West.

Instead of relocating the existing dry utilities to bring clear zones to meet standards, the developer is proposing two alternatives that include either curb and gutter or guard rail.

PREVIOUS ACTION:

10/24/23 - Council approved the Homestead Subdivision Preliminary Plat with conditions in Attachment 1.

STAFF RECOMMENDATION:

Staff recommends Council approve one of the following three options:

1. Direct Staff to enforce the current policy of a 24' roadway with 5' paved shoulders and relocating power poles as necessary to maintain AASHTO clearzone standards, or
2. Approve a policy deviation for offsite improvements to South Road 1 West adjacent to the proposed Homestead Subdivision to allow the use of a 24' roadway with curb and gutter in this rural area, or
3. Approve a policy deviation for offsite improvements to South Road 1 West adjacent to the proposed Homestead Subdivision to allow the use of a 24' roadway with approximately 2' paved shoulders and guardrail as needed at the power pole location.

FISCAL IMPACT?

N/A

ATTACHMENTS:

1.	Homestead prelim round 2
2.	Clear Zone 3-12-24
3.	Road 1 West Alternatives Letter SKR 5-29-2024
4.	Power Pole Exhibit-curb and gutter
5.	Power Pole Exhibit-guardrail

OWNER/DEVELOPER

RIGHT HOMES LLC,
468 S Lynx Creek Rd
Prescott, AZ 86303
JAY BATES
(480)652-6805
GM-RESULTS@YAHOO.COM

LAND SURVEYOR

BORDERLANDS LLC,
212 S. MARINA ST.
PRESCOTT, AZ 86303
ADAM M. HAYWOOD RLS
928-382-6135
ADAMHAYWOOD32@GMAIL.COM

ENGINEERING

BASSEM NABA, P.E.
CEDAR ENGINEERING LLC
6127 W. MORROW DRIVE
GLENDALE, ARIZONA 85308
BNABA.CEDAR@GMAIL.COM

PRELIMINARY PLAT

HOMESTEAD

BY RIGHT HOMES LLC.

LOCATED IN THE NW QUARTER OF SECTION 34, TOWNSHIP 16 NORTH, RANGE 2 WEST
OF THE GILA AND SALT RIVER BASE AND MERIDIAN

CURRENT APN: 306-33-009A

HOMESTEAD SUBDIVISION
PAGE 1 OF 2

DENSITY TABLE

EXISTING ZONING: SR-1
TOTAL AREA: 20.006 ACRES

TOTAL LOTS: 15	TOTAL TRACTS: 3
AVERAGE LOT SIZE: 1.040 ACRES	TRACT A: 0.036 ACRES
MINIMUM LOT SIZE: 1 ACRE	TRACT B: 1.081 ACRES
MAXIMUM LOT SIZE: 1.05 ACRES	TRACT C: .0475 ACRES
TOTAL R.O.W. DEDICATION: 3.241 ACRES	

FLOODPLAIN

NO PORTION OF THIS SUBDIVISION FALLS WITHIN A FEMA DESIGNATED SPECIAL FLOOD HAZARD AREA (SFHA). PLEASE SEE FIRM PANEL 04025C1680G, EFFECTIVE 09/03/2010 FOR MORE INFORMATION

ZONING

ALL CONSTRUCTION SHALL COMPLY WITH CITY CODES AND SETBACK DIMENSIONS PER TOWN OF CHINO VALLEY SR-1 ZONING

UTILITY NOTE

ALL NEWLY CREATED LOTS SHOWN HEREON ARE TO HAVE WATER PROVIDED BY INDIVIDUAL WELLS LOCATED ON EACH LOT, AS WELL AS INDIVIDUAL SEPTIC SYSTEMS LOCATED ON EACH LOT. ELECTRICITY IS TO BE PROVIDED BY APS, CABLE BY SPARKLITE AND TELEPHONE SERVICE BY QWEST.

ODOR NOTE

DURING CERTAIN SEASONS ALL LOTS SHOWN HEREON WILL BE SUBJECTED TO ODORS CAUSED BY A MEAT PROCESSING FACILITY LOCATED TO THE NORTH OF THIS SUBDIVISION.

ROAD IMPROVEMENT NOTES

NEWLY CREATED RIGHT-OF-WAY IS TO BE IMPROVED TO THE STANDARDS SET FORTH IN THE APPROVED CIVIL CONSTRUCTION DOCUMENTS SUBMITTED IN CONJUNCTION WITH THE FINAL PLAT, AND DESIGNED TO TOWN OF CHINO VALLEY MAJOR SUBDIVISION SPECIFICATIONS

GENERAL CONSTRUCTION NOTES

ALL CONSTRUCTION AND GROUND DISTURBANCE ACTIVITIES ARE SUBJECT TO COMPLIANCE WITH THE REQUIREMENTS OF THE TOWN OF CHINO VALLEY CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL STANDARDS. THIS APPLIES TO ALL STAGES OF CONSTRUCTION, INCLUDING HOME CONSTRUCTION AND LANDSCAPING ON INDIVIDUAL LOTS. EROSION AND SEDIMENT CONTROL MEASURES MUST BE MAINTAINED UNTIL ALL SITES HAVE BEEN PERMANENTLY STABILIZED.

WATER NOTE

CERTIFICATE OF ASSURED WATER SUPPLY HAS BEEN ISSUED FOR THIS SUBDIVISION BY THE ARIZONA DEPARTMENT OF WATER RESOURCES, CERTIFICATE NUMBER 27-701257.0000

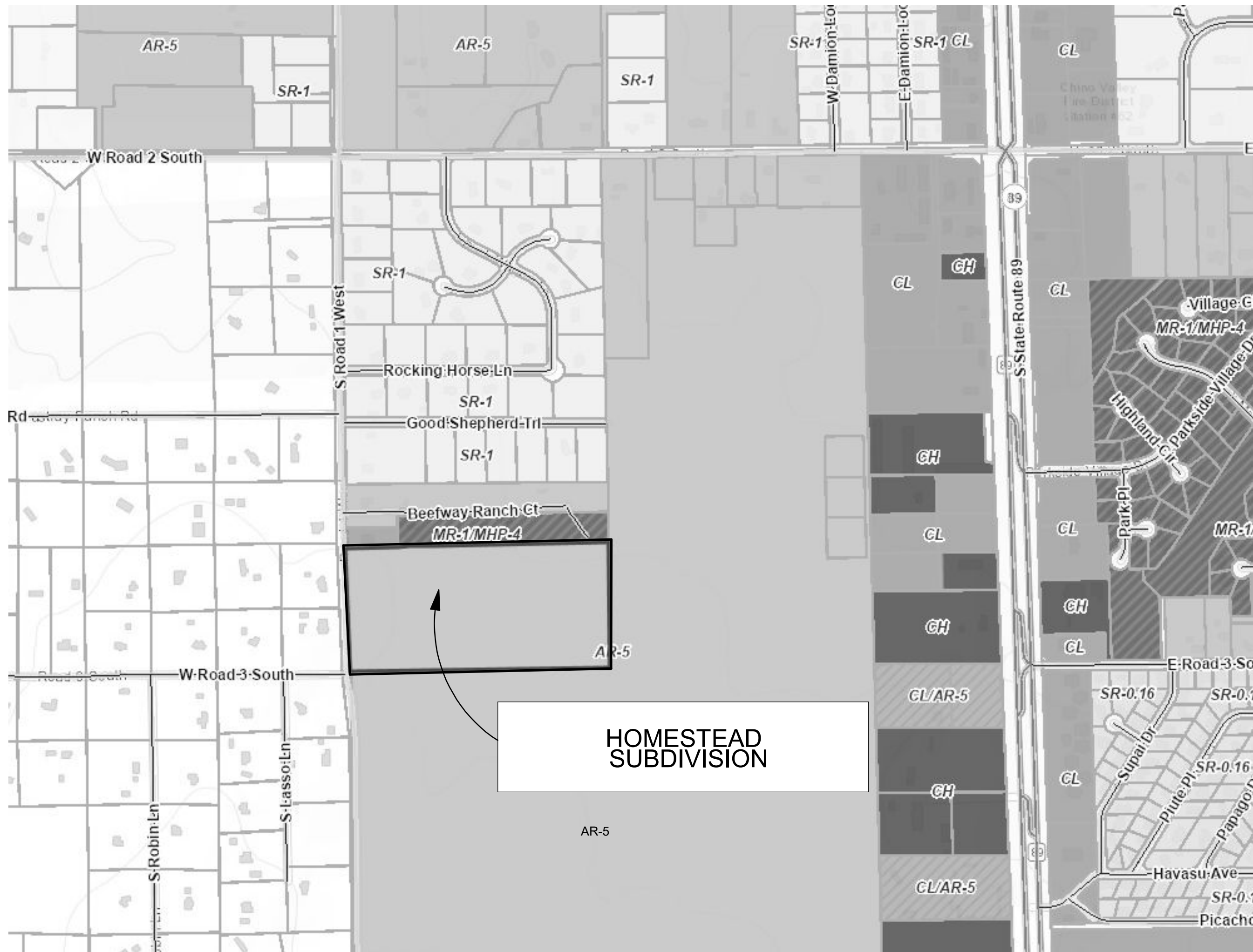
LEGAL DESCRIPTION

ALL THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 16 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

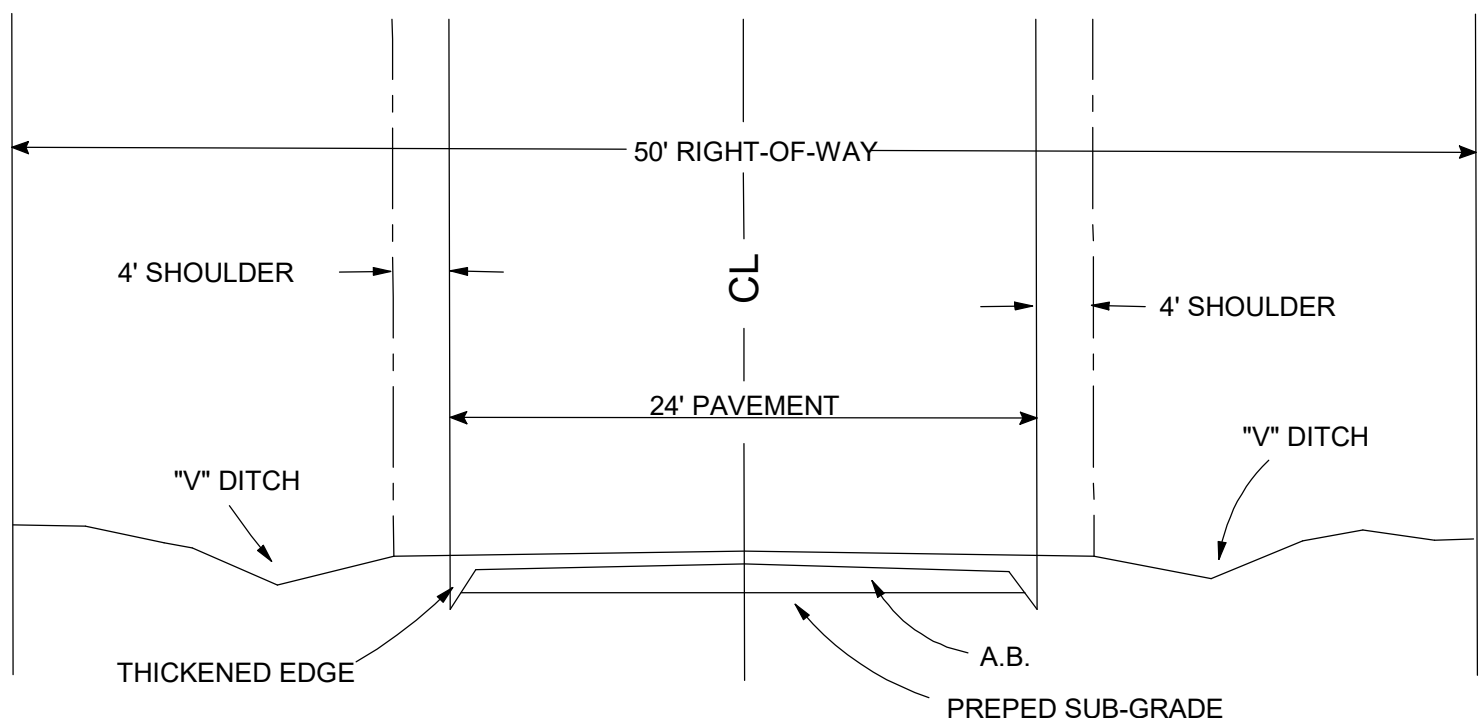
BEGINNING, AT THE WEST QUARTER CORNER OF SECTION 34, A FOUND BRASS MONUMENT;
THENCE, NORTH 00°00'27" WEST, ALONG THE WEST LINE OF SECTION 34, A DISTANCE OF 640.17 FEET TO A FOUND ½" REBAR WITH CAP, LS 41076; (RECORD N 0°00'06", 639.78")
THENCE, SOUTH 89°39'50" EAST, A DISTANCE OF 1,361.39 FEET TO A FOUND ½" REBAR WITH CAP, LS 41076; (RECORD S 89°40'39" E, 1361.25")
THENCE, SOUTH 00°04'22" EAST, A DISTANCE OF 639.79 FEET TO A FOUND ½" REBAR WITH CAP, LS 41076; (RECORD S 0°06'22" E, 639.78")
THENCE, NORTH 89°40'48" WEST, A DISTANCE OF 1,362.12 FEET TO THE POINT OF BEGINNING. (RECORD N 89°40'39" W, 1362.23)

CONTAINING 871,460 SQUARE FEET OR 20.006 ACRES, MORE OR LESS.

VICINITY MAP (NOT TO SCALE)



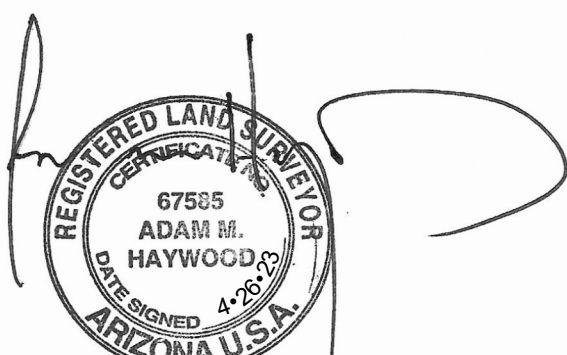
TYPICAL ROAD SECTION (NOT TO SCALE)



THIS ROAD SECTION IS INTERPRETED FROM THE CHINO VALLEY UDO 5.3.2 STREET DESIGN, ACTUAL DESIGN AND DITCH CHARACTERISTICS TO BE DETERMINED BY CIVIL ENGINEERING.

SURVEYOR CERTIFICATION

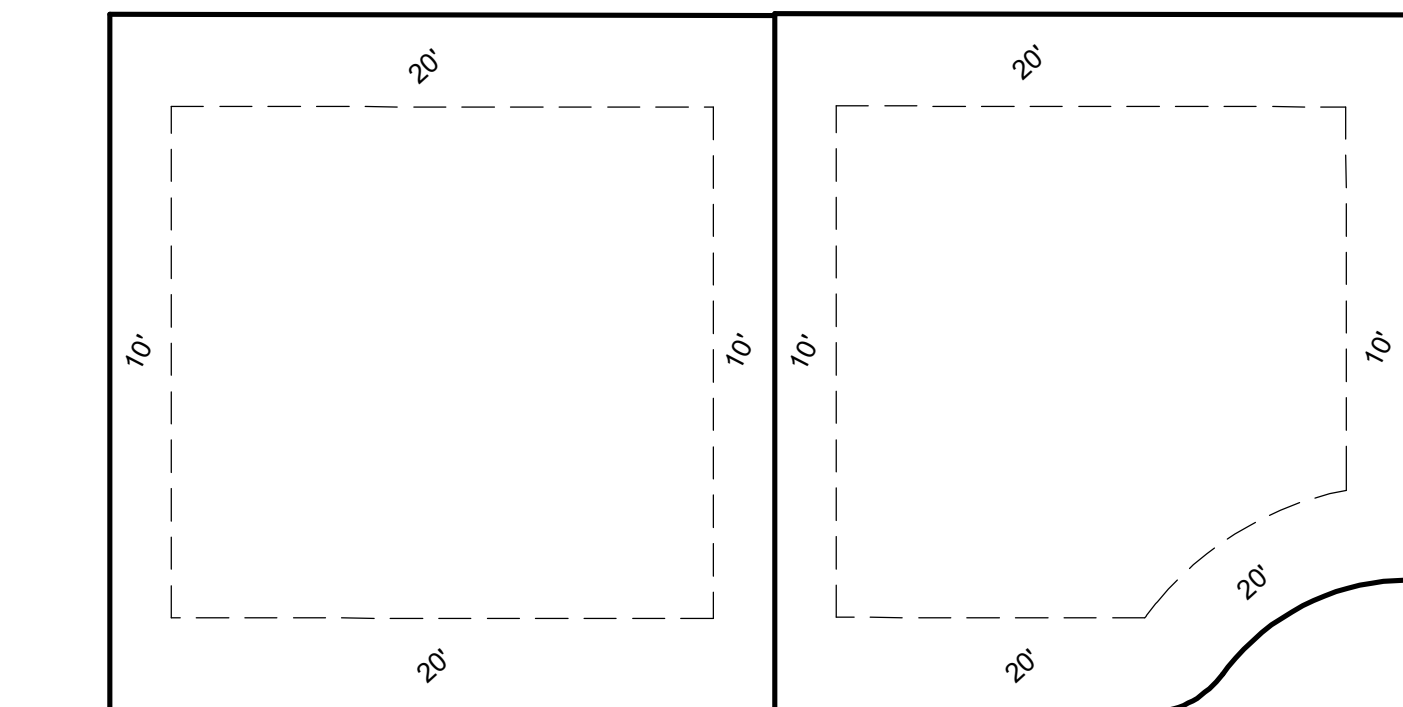
I, ADAM M. HAYWOOD, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT REPRESENTS A SURVEY MADE UNDER MY DIRECT SUPERVISION DURING THE MONTH OF APRIL, 2023; THAT THE SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT THE BOUNDARY FORMS A MATHEMATICALLY CLOSED FIGURE; AND THAT ALL MONUMENTS SHOWN ACTUALLY EXIST OF THE DATE HEREOF AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT ALL LOTS ARE STAKED, OR WILL BE STAKED WITHIN SIX MONTHS OF THE RECORDATION OF THIS PLAT.



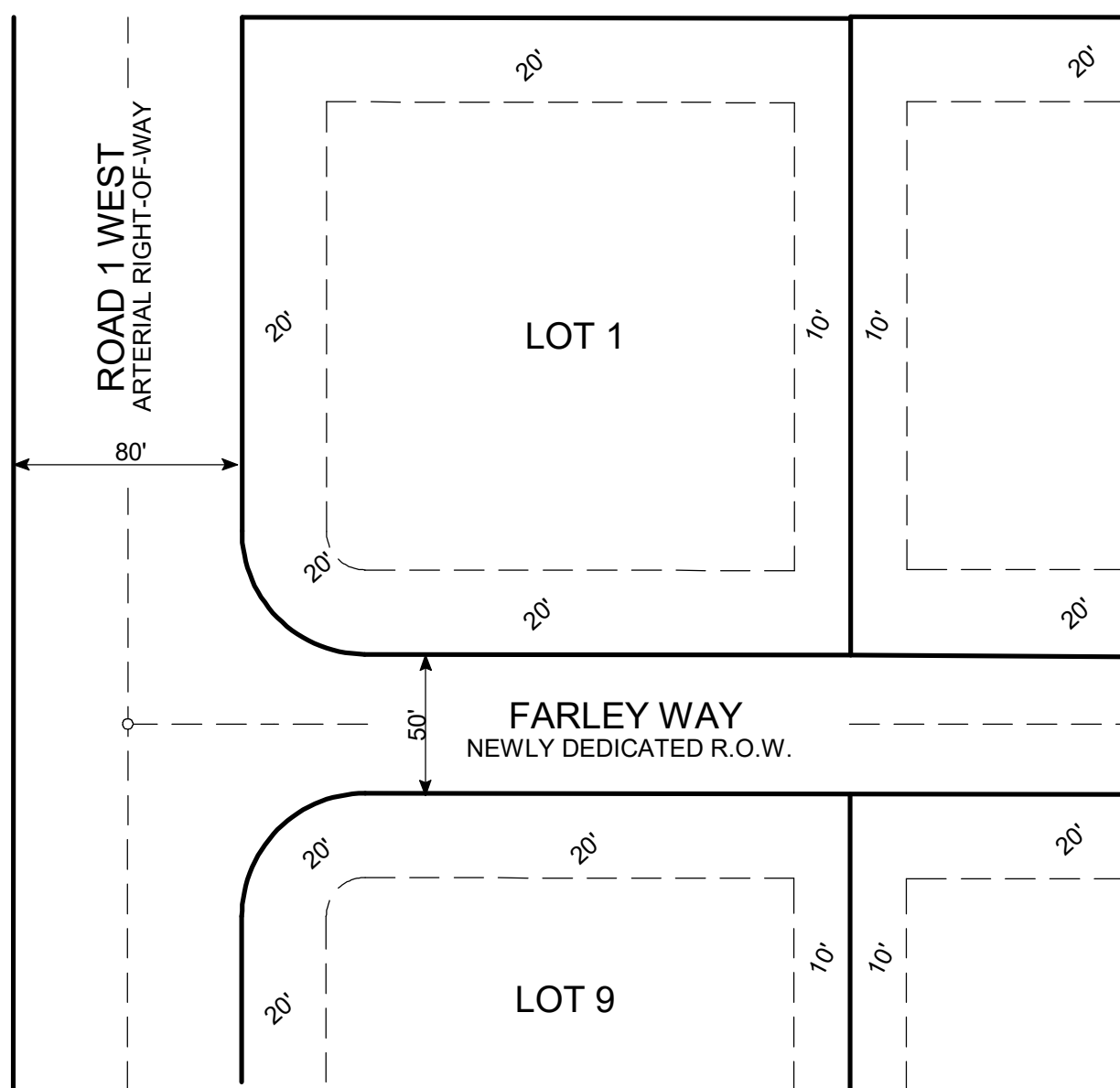
TYPICAL BUILDING SET BACKS

SHOWN PER TOWN OF CHINO VALLEY SR-1 ZONING.
SEE TOWN OF CHINO UDO SECTION 3.11

NOT TO SCALE



FARLEY WAY
NEWLY DEDICATED R.O.W.



ROAD 1 WEST SETBACK NOTE

THE BUILDING SETBACK ALONG ROAD 1 WEST IS 20 FEET
PER TOWN OF CHINO VALLEY UDO 4.28.1 & 4.28.1.K

BUILDING ENVELOPE NOTE

ALL CONSTRUCTION CONFORMING TO THE CHINO VALLEY UDO SHALL BE ALLOWED ANYWHERE WITHIN BUILDING SETBACK LINES. NO NON-TYPICAL BUILDING ENVELOPE/SETBACK SITUATIONS EXIST

RECORDED AT THE REQUEST OF
THE TOWN OF CHINO VALLEY

BORDERLANDS LLC
212 S. MARINA ST.
PRESCOTT, AZ 86303
(928) 778-5101

JOB NO: 21-523

CLIENT: RIGHT HOMES

CREW: AMH

SCALE: 1" = 50'

DRAW: AMH

4/26/23

CHK: AMH

4/26/23

Magee Bradley D & Jennifer
APN: 306-02-534
UN-SUBDIVIDED
RCU-2A, YAV. CO.
PORT. PARCEL 16
ANGUS ACRES
BK 2 LS, PG 100
4.71 AC

Colter Carol A
APN: 306-02-535A
UN-SUBDIVIDED
RCU-2A, YAV. CO.
PORT. PARCEL 16
ANGUS ACRES
BK 2 LS, PG 100
2.28 AC

Grunberg Gerry G
& Gail Revocable Trust
APN: 306-02-535B
UN-SUBDIVIDED
RCU-2A, YAV. CO.
PORT. PARCEL 16
ANGUS ACRES
BK 2 LS, PG 100
2.24 AC

ROAD 1 WEST

80' ARTERIAL
RIGHT OF WAY

S. ROAD 1 WEST
COUNTY MAINTAINED
PUBLIC R.O.W.

Caraker Family Revocable Trust
APN: 306-02-536
UN-SUBDIVIDED
RCU-2A, YAV. CO.
LS 2019-0055318
2.28 AC

Schuster Shirley A Living Trust
APN: 306-33-218A
UN-SUBDIVIDED
CL
0.62 AC

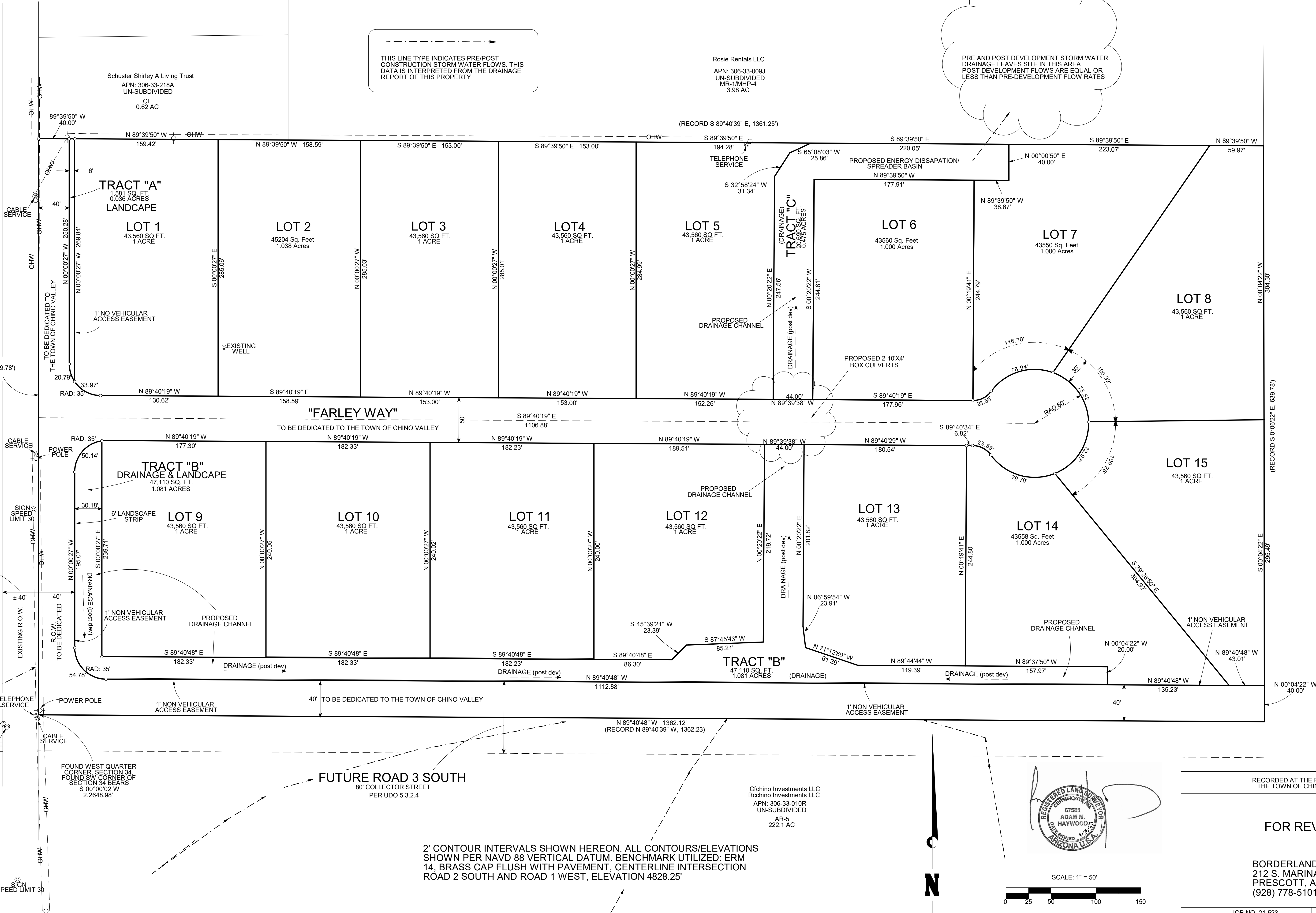
Rosie Rentals LLC
APN: 306-33-009J
UN-SUBDIVIDED
MR-1/MHP-4
3.98 AC

Cfchino Investments LLC
Rochino Investments LLC
APN: 306-33-010R
UN-SUBDIVIDED
AR-5
222.1 AC

Cfchino Investments LLC
Rochino Investments LLC
APN: 306-33-010R
UN-SUBDIVIDED
AR-5
222.1 AC

THIS LINE TYPE INDICATES PRE/POST
CONSTRUCTION STORM WATER FLOWS. THIS
DATA IS INTERPRETED FROM THE DRAINAGE
REPORT OF THIS PROPERTY

PRE AND POST DEVELOPMENT STORM WATER
DRAINAGE LEAVES SITE IN THIS AREA.
POST DEVELOPMENT FLOWS ARE EQUAL OR
LESS THAN PRE-DEVELOPMENT FLOW RATES



RECORDED AT THE REQUEST OF
THE TOWN OF CHINO VALLEY

FOR REVIEW

BORDERLANDS LLC
212 S. MARINA ST.
PRESCOTT, AZ 86303
(928) 778-5101

JOB NO: 21-523

DRAW: AMH

CLIENT: RIGHT HOMES

4/26/23

CREW: AMH

CHK: AMH

SCALE: 1" = 50'

4/26/23

CLEAR ZONE EXHIBIT 3/12/24





May 24, 2024

Jay Bates
Right Homes LLC
468 S. Lynx Creek Rd
Prescott, AZ 86303

RE: Homestead 15 Lot Subdivision – Chino Valley
Road 1 West Improvements – Power Pole Encroachments
Project Number 224010

Dear Jay:

The Town of Chino Valley requires that you improve Road 1 West with 12 feet of paved roadway (Half Road) and 5 feet of paved shoulder. We applied this to our first submittal to the Town, which resulted in the power poles being in the paved shoulder. This was not acceptable to the Town.

We were tasked with looking at alternatives to improve Road 1 West without relocating the power poles. We used Maricopa County Department of Transportation (MCDOT) Roadway Design Manual ([Roadway-Design-Manual-2024 \(maricopa.gov\)](https://www.maricopa.gov/transportation/roadway-design-manual-2024)) to look at acceptable design alternatives; one alternative using curb, gutter and sidewalk and the other alternative using guardrail. Both alternatives will improve Road 1 West with two 12-foot travel lanes across the property frontage and appropriate taper transitions at either end of the project. Currently Road 1 West is paved 21 feet wide, and its pavement edge is between 3 feet and 6 feet from the power poles.

Alternative 1 – Curb Gutter and Sidewalk Option

MCDOT normally requires a minimum 10-foot clear zone between the travel way and fixed roadside objects for design speeds less than 40 MPH. However, MCDOT states: “For urban roadways without a bike lane, a 6-foot clear zone shall be provided behind the curb that is free of all obstacles.” Our proposed design has the pole a minimum of 6 feet behind the face of the curb.

Alternative 2 - Guardrail Option

According to MCDOT, “Guardrail primary purpose is to safely redirect an errant vehicle away from a roadside object”, in this case the power poles. Per MCDOT design standards, we have provided 2 feet between the guardrail face and the travel lane and have a minimum of 4 feet between the rail face and the power pole. We have also provided an additional 2-foot paved shoulder on the west side of the road, as well as a multi-use path for pedestrians.

Conclusion

The preferred alternative is to move the poles a sufficient distance away from the roadway lanes to be outside of the clear zone. This has been explored with the power company, and it is estimated that the relocation will cost more than \$400,000. This additional expense cannot be applied to the residential sales of 15 lots and still make this project economically viable.

The alternatives we have presented will meet MCDOT Roadway Design Manual requirements and provide the Town of Chino Valley with a much safer road than currently exists in this location. For the Guardrail option, it is questionable if guardrail would meet warrants because the design speed is only 30 mph. However, a traffic study may reveal that the 85% speed is more than 30 mph, and the guardrail may then be a beneficial safety feature.

The Curb and Gutter option provides a better sight triangle than the Guardrail option at the intersection with Farley Way. The sidewalk provides a pedestrian amenity to the residents of Homestead that will connect to the gravel shoulders on Farley Way. The curb and sidewalk will also provide a barrier to the 40' new right of way and the drainage and landscape tracts. These pockets of undeveloped public right of way often become unauthorized dirt parking areas for large trucks, RV's, trailers, and vehicles for sale. The curb and sidewalk will discourage this use and will help keep the subdivision frontage curb appeal.

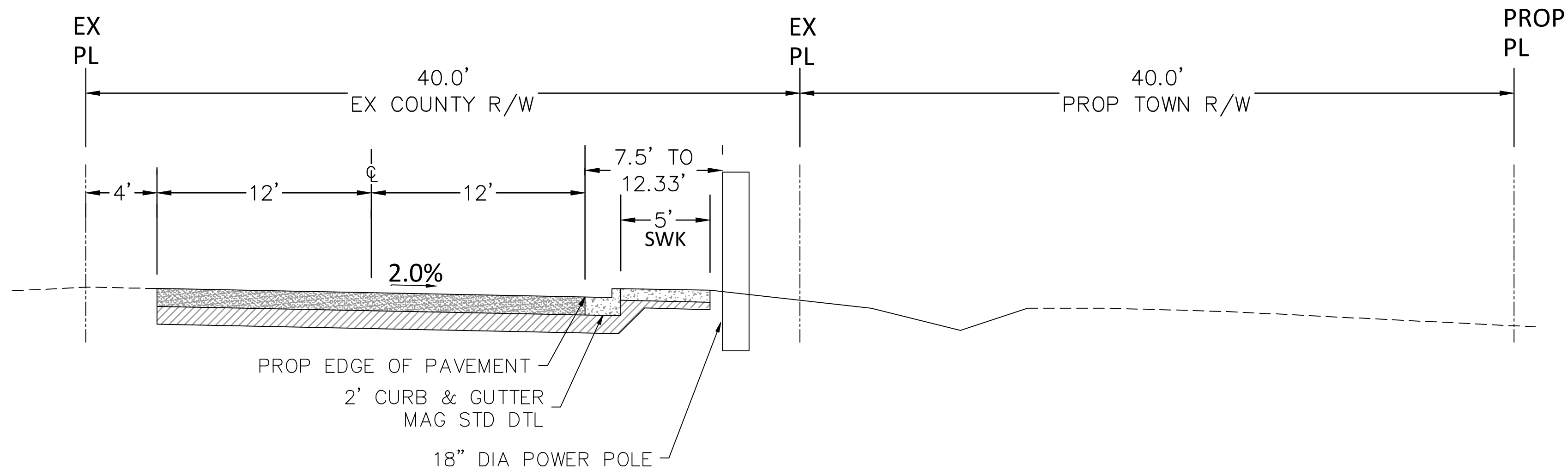
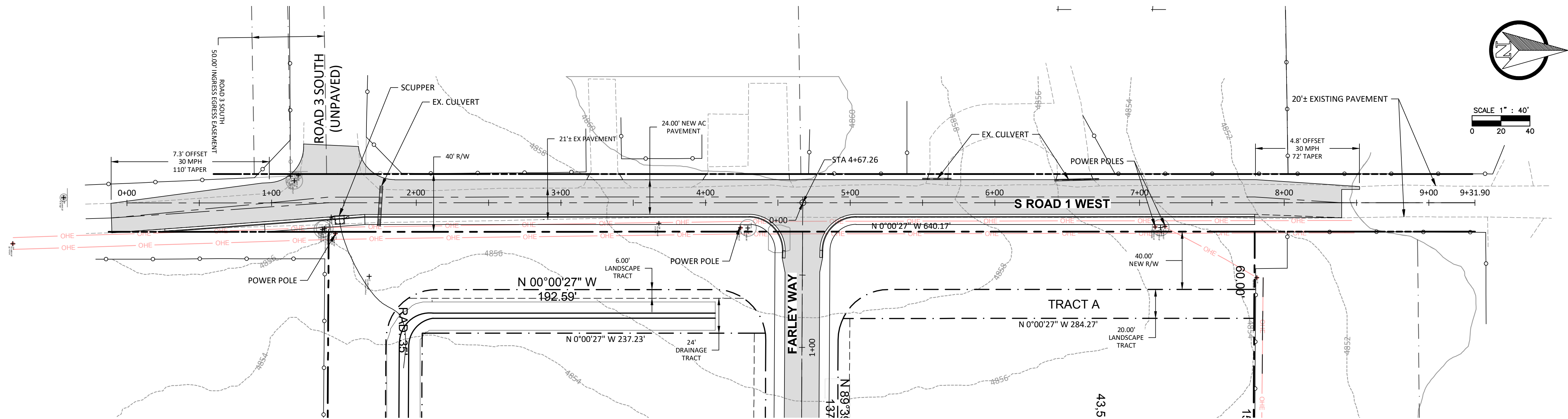
I am forwarding this letter and exhibits to Frank Marbury and Steve Sullivan. Please set up a meeting with the Town so we can discuss these options.

Sincerely,



05/29/2024

Karl Rockwell, P.E.
Senior Project Manager/Office Manager

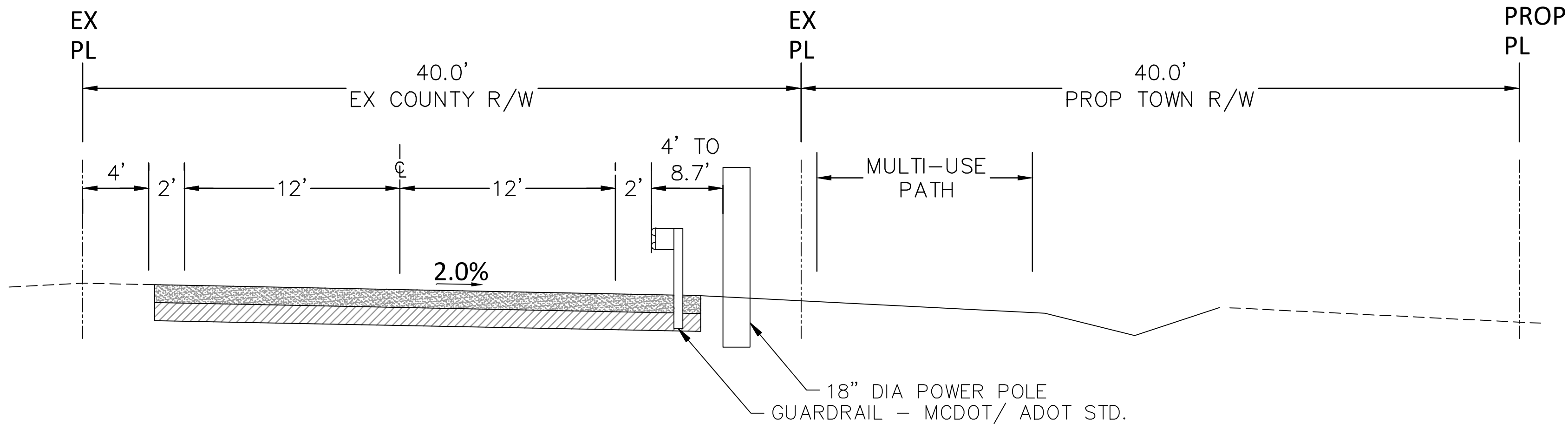
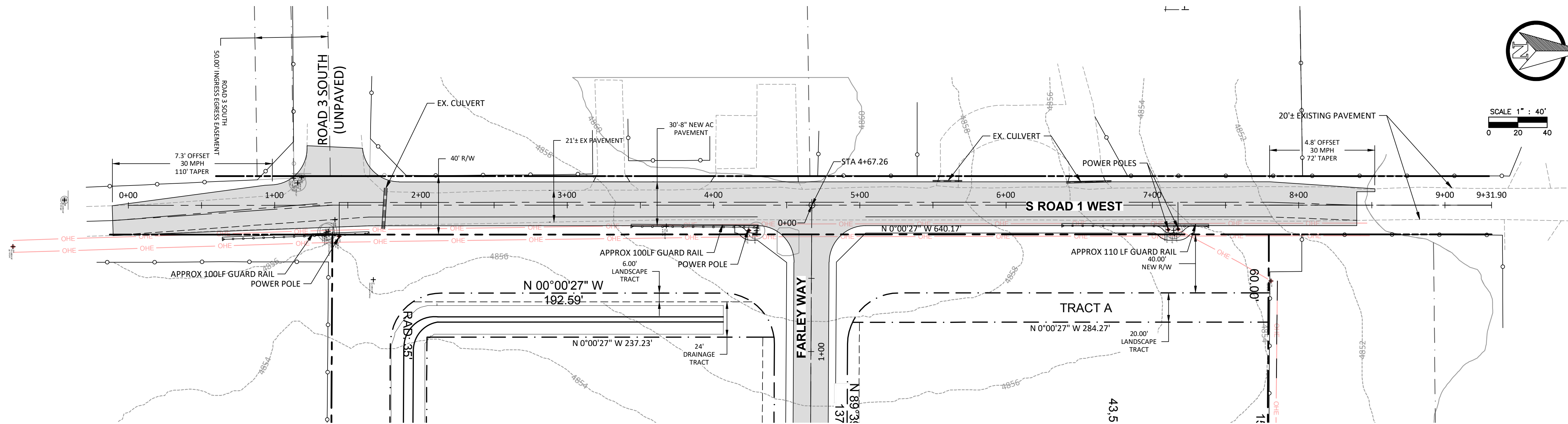


TYPICAL SECTION - CURB & GUTTER OPTION



DWG.	JOB NO.:	224010	BY	DATE	NO.	REVISION
	DESIGN BY:					
OFF-1	DRAWN BY:					
	CHECKED:					
SHEET	11	OF				
HOMESTEAD SUBDIVISION			TOWN OF CHINO VALLEY, AZ			
S ROAD 1 WEST						
SECTION EXHIBIT						
YAVAPAI, COUNTY						
O: 928.541.0443 221 N MARINA STREET SUITE 102 PRESCOTT, AZ 86301 www.ardurra.com						
ARDURRA						
COLLABORATE. INNOVATE. CREATE.						

PLOTTED: May 23, 2024 10:34am
 FILE: M:\2024\224010 HOMESTEAD - RIGHT HOMES\DRAWINGS\EXHIBITS\POWER POLE EXHIBIT.DWG
 J.ROBINSON



TYPICAL SECTION - GUARDRAIL OPTION



DWG.	JOB NO.:	DESIGN BY:	DRAWN BY:	CHECKED:	DATE:	YAVAPAI, COUNTY	TOWN OF CHINO VALLEY, AZ	HOMESTEAD SUBDIVISION	S ROAD 1 WEST	SECTION EXHIBIT	ARDURRA	O: 928.541.0443 221 N MARINA STREET SUITE 102 PRESCOTT, AZ 86301 www.ardurra.com	NO.	DATE	BY	REVISION
OFF-1	224010															
SHEET																
11																
OF																
#																



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6e
MEETING DATE: 9/10/2024
CONTACT PERSON: Andrew McGuire, Attorney
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Consideration and possible action to approve Resolution No. 2024-1270 regarding the Notice received from the Industrial Development Authority of the County of Pima.

SUMMARY:

On August 21, 2024, the Town received notice from the Industrial Development Authority of the County of Pima of its intention to issue one or more series of The Industrial Development Authority of the County of Pima Single Family Mortgage Credit Certificates. The proceeds of those certificates would be used in the Pima IDA's Qualified Mortgage Certificate Programs, including the Qualified Mortgage Credit Certificate Program of 2024 and 2025, to provide mortgage loan assistance to persons meeting certain restrictions for acquisition or improvement of owner-occupied single-family dwelling units. The Notice triggered a 21-day period during which the Town may exercise its statutory right to prohibit the use of the MCC Program with respect to mortgage loans on residences within its boundaries. The council has three options:

1. Take no action (which is tacit approval).
2. Take action to approve the Pima IDA to implement the MCC Program within the corporate limits of the Town.
3. Adopt a resolution denying approval to the Pima IDA to implement the MCC Program within the corporate limits of the Town.

PREVIOUS ACTION:

N/A

STAFF RECOMMENDATION:

Approve Resolution No. 2024-1270 regarding the Notice received from the Industrial Development Authority of the County of Pima.

FISCAL IMPACT?

ATTACHMENTS:

1.	RES 2024-1270 Opting out of Pima IDA MCC Program
----	--

RESOLUTION NUMBER 2024-1270

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, DENYING AUTHORIZATION OF ANY QUALIFIED SINGLE FAMILY MORTGAGE CREDIT CERTIFICATE PROGRAM PROPOSED BY AN INDUSTRIAL DEVELOPMENT AUTHORITY OR SIMILAR ENTITY WITHIN THE CORPORATE LIMITS OF THE TOWN.

WHEREAS, on August 21, 2024, the Town of Chino Valley, Arizona (the "Town"), received notice dated August 21, 2024 (the "Notice"), from the Industrial Development Authority of the County of Pima (the "Pima IDA") of its intention to issue one or more series of The Industrial Development Authority of the County of Pima Single Family Mortgage Credit Certificates (the "Certificates"), the proceeds of which would be used in the Pima IDA's Qualified Mortgage Certificate Programs, including the Qualified Mortgage Credit Certificate Program of 2024 and 2025 (collectively, the "MCC Program"), to provide mortgage loan assistance to persons meeting certain restrictions for acquisition or improvement of owner-occupied single-family dwelling units; and

WHEREAS, the Notice triggered a 21-day period during which the Town may exercise its statutory right to prohibit the use of the MCC Program with respect to mortgage loans on residences within its boundaries; and

WHEREAS, the Mayor and Council of the Town (the "Town Council") desires to exercise its right to prohibit the use of the MCC Program within the corporate limits of the Town.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Chino Valley, Arizona, that:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Town Council hereby elects to deny approval to the Pima IDA to implement the MCC Program within the corporate limits of the Town, and to authorize the Town Manager to provide a copy of this Resolution and other such notice as necessary to the Pima IDA's representative in the manner set forth in the Notice.

SECTION 3. The Town Council's authorization in this Resolution shall be continuing until revoked. Accordingly, the Town officers and employees are authorized and directed to provide to any industrial development authority or similar entity such notice as required to indicate the Town's desire to not allow Qualified Mortgage Credit Certificate Programs to be implemented within the corporate limits of the Town.

SECTION 4. 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 Resolution.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 10th day of September, 2024.

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 that the above foregoing Resolution No. 2024-1270 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on September 10, 2024, and that quorum was present thereat and that the vote thereon was ____ ayes and ____ nays and ____ abstentions. ____ Council members were absent or excused.

Erin N. Deskins, Town Clerk



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6f
MEETING DATE: 9/10/2024
CONTACT PERSON: Andrew McGuire, Attorney
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Consideration and possible action relating to potential appeal in the Paul D. Levie, *et al.* v. Town of Chino Valley matter.

SUMMARY:

Town Attorney Andrew McGuire will discuss options regarding potential appeal and reimbursement of legal fees.

PREVIOUS ACTION:

N/A

STAFF RECOMMENDATION:

Direct staff regarding the options related to the Paul D. Levie, *et al.* v. Town of Chino Valley matter.

FISCAL IMPACT?

ATTACHMENTS:

None



TOWN COUNCIL AGENDA ITEM STAFF REPORT

AGENDA ITEM # 6g
MEETING DATE: 9/10/2024
CONTACT PERSON: Laura Kyriakakis, Human Resources Director
ITEM TYPE: Action Item

AGENDA ITEM TITLE:

Consideration, discussion, and possible action regarding the recruitment process for the position of Town Manager.

SUMMARY:

Staff will present options for the process of recruiting for a Town Manager.

PREVIOUS ACTION:

N/A

STAFF RECOMMENDATION:

Direct staff on the recruiting process for the position of Town Manager.

FISCAL IMPACT?

N/A

ATTACHMENTS:

None
